

SECOND NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FOURTH REGULAR SESSION, 1981

AN ACT

To establish a Fish and Wildlife Division in the Department of Natural Resources, provide for the conservation of fish, game, and endangered species, and for other purposes.

Date: January 22, 1980

House Action

Referred to: Committee on Resources and Development
Committee on Judiciary and Governmental Operations

Standing Committee Report No. 2-93

First Reading: May 12, 1981


Second Reading: May 13, 1981

Senate Action

Referred to: Committee on Programs

Standing Committee Report No. 2-134

Final Reading: September 17, 1981



Esteban I. Pangelinan
Clerk
House of Representatives

AN ACT

To establish a Fish and Wildlife Division in the Department of Natural Resources., provide for the conservation of fish, game, and endangered species, and for other purposes.

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Short Title. This Act may be cited as the "Fish,
2 Game, and Endangered Species Act",

3 Section 2. Definitions. For purposes of this Act, the term--

4 (1) "Department" means the Department of Natural Resources;

5 (2) "Director" means the Director of Natural Resources;

6 (3) "Division" means the Division of Fish and Wildlife,
7 as constituted by Section 3 of this Act;

8 (4) "Chief" means the Chief of the Division of Fish and
9 Wildlife;

10 (5) "endangered species" means any member of the plant
11 or animal kingdom which is in danger of extinction and is so
12 designated pursuant to Section 9 of this Act;

13 (6) "threatened species" means any animal species or
14 plant species which appears likely to become an endangered
15 species within the foreseeable future and is so designated
16 pursuant to Section 9 of this Act;

17 (7) "critical habitat" means a specific area within
18 or subject to the jurisdiction of the Commonwealth, occupied
19 by and essential to the conservation of an endangered species
20 or threatened species, which may require special management
21 considerations or protection and which is so designated
22 pursuant to Section 9 of this Act; and

2 Section 3. The Division. (a) The Marine Resources Division of
3 the Department is hereby renamed and reconstituted as the Division of
4 Fish and Wildlife. The Division shall be headed by a Chief, who shall
5 serve under the supervision and control of the Director,

6 (b) All powers and duties, and all personnel, assets,
7 obligations, funds, appropriations, allocations, and other similar
8 matters, assigned to the Marine Resources Division, shall be
9 considered as assigned to the Division,

10 (c) In addition to the powers and duties assigned to the
11 Division pursuant to subsection (b) of this section, the Chief
12 shall be responsible for the day-to-day administration and
13 enforcement of this Act.

14 Section 4. Conservation Officers. (a) With the approval of
15 the Director, the Chief shall designate and provide with official
16 identification one or more employees assigned to the Division as
17 conservation officers who shall have direct responsibility for the
18 enforcement of this Act and of the regulations issued under this Act,
19 The Director and the Chief shall be conservation officers ex officio,

20 (b) Conservation officers shall be deemed to be law enforcement
21 officers and shall have the powers of law enforcement officers to
22 carry arms and to make arrests, pursuant to law, for any violation of
23 this Act or of any regulation issued pursuant to this Act.

24 (c) In consideration of the privilege of fishing or hunting in
25 the Commonwealth, regardless of whether a permit is required for such

1 purpose, any person engaged in fishing or hunting, or having in
2 his possession fish or game taken in the Commonwealth, shall, upon
3 request and upon being shown proper identification, permit a
4 conservation officer to inspect any fish or game taken by or under
5 control of such person and any tackle, weapon, device, substance,
6 bait, boat, blind, weir, net, trap, or other article used in such
7 fishing or hunting.

8 (d)(1) To the extent of available resources, the Director of
9 Public Safety shall assist the conservation officers when necessary
10 to the performance of their duties under this Act.

11 (2) The Director may, by agreement, delegate concurrent
12 jurisdiction for the enforcement of this Act and the regulations
13 issued pursuant to this Act to the Director of Public Safety, and
14 any law enforcement officer of the Department of Public Safety,
15 operating under such agreement, shall be deemed a conservation
16 officer for purposes of this Act.

17 Section 5. Powers and Duties. (a) The protection of fish, game,
18 and endangered and threatened species is vested exclusively in the
19 Department.

20 (b) In addition to any other power or duty provided in this Act
21 or otherwise provided by law, the Director is authorized to —

22 (1) determine the status of, and any requirement for the
23 survival of, resident species of fish, wildlife, or plants;

24 (2) conserve and ensure the survival of species of fish and
25 game of significant value for sport, recreational, subsistence, or
26 commercial purposes;

1 (3) ensure the survival of endangered and threatened
2 species pursuant to Section 9 of this Act;

3 (4) consider the needs of nongame fish and wildlife
4 and of marine mammals;

5 (5) acquire land or aquatic habitat, or easements thereon,
6 as necessary to carry out the purposes of this Act, subject to
7 the receipt of any appropriate guarantee or assignment from the
8 Marianas Public Land Corporation;

9 (6) accumulate necessary data on fish, game, and endangered
10 and threatened species, and shall upon request supply any portion
11 of such data to the Director of Commerce and Labor as may be
12 required for statistical research purposes, with appropriate
13 guarantees of confidentiality as necessary to ensure maximum
14 completeness and accuracy of such data;

15 (7) issue, in accordance with existing law, regulations
16 necessary to carry out the purposes of this Act, which may
17 include regulations to--

18 (A) establish seasons for hunting and fishing;

19 (B) specify the type, size, or other characteristic
20 of any device used for taking fish or game;

21 (C) provide for the issuance of recreational fishing
22 and hunting licenses and to impose fees for such licenses;

23 (D) provide bag, creel, and possession limits;

24 (E) set any necessary geographical limits on fishing
25 or hunting; and

1 (F) provide for the exemption of conservation
2 officers and other persons from any provision of this
3 Act or any regulation issued under this Act, when such
4 regulation would be consistent with the overall purposes
5 of this Act; and

6 (I:) establish a system of rewards for persons, other
7 than government employees in the course of their official
8 duties, who furnish information which leads to a finding of
9 civil violation or a conviction of a criminal violation of
10 this Act or any regulation, permit, or license issued under
11 this Act: Provided, that if a fine or civil penalty is paid
12 no such reward shall exceed the lesser of \$1,000 or fifty
13 percent of such fine or penalty, and if no such fine or
14 penalty is paid no such reward shall exceed \$100.

15 (c) The Director shall issue regulations to restrict or prohibit
16 the use of any device, substance, or method for taking fish or game
17 upon a finding that such use would be contrary to the purposes of
18 this Act.

19 Section 6. Interagency Cooperation. Any department, agency,
20 public corporation, or other instrumentality of the Commonwealth which
21 plans to conduct, permit, or license any activity involving commercial
22 fishing or hunting, or which might otherwise adversely affect any fish,
23 game, or endangered or threatened species, regulated under this Act,
24 including destruction of any critical habitat, shall first consult with
25 the Director.

1 Section 7. Intergovernmental Cooperation. (a) The Commonwealth
2 hereby assents to the provisions of the Federal Aid in Wildlife
3 Restoration Act (16 U.S.C. 669, et seq.) and Fish Restoration and
4 Management Projects Act (16 USC 777, et seq.).

5 (b) Commonwealth assent to either or both Federal Laws specified
6 in subsection (a) of this section shall be suspended whenever the
7 Governor certifies to the Legislature that, due to any change in
8 circumstances or in law, continued assent would not be in the best
9 interests of the Commonwealth. Such suspension shall be effective on
10 a date specified by the Governor in such certification. Such assent
11 shall remain suspended until such time as the Governor certifies that
12 such assent is once again in the best interests of the Commonwealth,
13 or until the Legislature terminates such suspension by concurrent
14 resolution, whichever first occurs. The Governor shall promptly
15 inform the Director of Finance and the United States Secretary of
16 the Interior regarding any certification under this subsection.

17 (c) The Department is designated as the "state fish and game
18 department" for purposes of the Federal laws assented to in subsection
19 (a) of this section, and may avail the Commonwealth of the benefits of
20 such laws.

21 (d) The Governor, or the Director with the approval of the
22 Governor, is authorized to enter into cooperative agreements with any
23 governmental, regional, or private entity to further the purposes of
24 this Act. Pursuant to such agreements the Director is authorized to
25 develop and implement plans, projects, and conservation programs

relating to fish, game, and wildlife, marine mammals,
threatened and endangered species.

Section 8. Fish and Game Conservation Fund. There is established
in the Commonwealth Treasury a Fish and Game Conservation Fund
(hereafter referred to in this Act as the "Fund"). An amount equal to
all revenues accruing each fiscal year (beginning with the fiscal year
ending September 30, 1981) from any license issued under this Act shall
be covered into the Fund and is authorized to be appropriated only for
the purpose of the administration of the Department. The Director of
Finance shall administer the Fund and shall expend moneys from the fund,
pursuant to regularly established accounting and control procedures, on
the order of the Director or his authorized designee. The coverage of
such revenues into the Fund shall be suspended for any period of time
during which assent is suspended pursuant to Section 7(b) of this Act,
and such revenues collected during such period shall be covered into
the General Fund.

Section 9. Endangered and Threatened Species.

(a) (1) The Director shall, by regulation, determine
whether any species should be designated as an endangered
species or a threatened species, taking into consideration
the status of its habitat or range, its utilization by man
for various purposes, diseases or predators, other natural
or manmade factors affecting its continued existence, and
the need for adequate regulation or management.

1 (2) When appropriate, the Director shall include
2 in such regulation the designation of any portion of such
3 range as the critical habitat of such species, taking into
4 consideration the economic impact and other relevant impacts
5 of such designation. The Director may exclude from such
6 designation any area with respect to which he determines that
7 the benefits of such exclusion outweigh the inclusion of such
8 area, unless such exclusion will result in the extinction of
9 such species throughout the world.

10 (b) No designation shall be made pursuant to subsection
11 (a) of this section until the Director has conducted a review
12 of the status of the species, has consulted with appropriate
13 Commonwealth, Federal, regional, and foreign officials, and
14 has held a public hearing on the proposed designation and
15 other regulations relating to such species.

16 (c) The Director shall revoke such designation when he
17 finds it is no longer applicable in the same manner as
18 provided for making such designation.

19 (d) If any consultation pursuant to Section 6 of this
20 Act results in an irresolvable conflict between the Director
21 and any agency regarding any activity to be conducted which
22 would jeopardize the survival of any endangered or threatened
23 species or which would destroy any critical habitat designated
24 pursuant to this section, such conflict shall be resolved by
25 the Governor. The Governor shall permit such agency to conduct

1 or authorize such activity if he determines that—

2 (1) there is no reasonable alternative to the
3 proposed activity;

4 (2) the benefits of such activity are significant
5 to the Commonwealth and clearly outweigh the benefits
6 of other courses of action consistent with conserving
7 the species or critical habitat; and

8 (3) reasonable mitigation and enhancement measures
9 have been or will be established to minimize the adverse
10 effects of the proposed activity on such species or
11 critical habitat.

12 **Section 10. Enforcement, Remedies, and Penalties,**

13 (a) The Chief, pursuant to regulations issued by the
14 Director, shall have the power to issue any necessary order to enforce
15 any regulation issued under this Act, and the terms of any license or
16 permit issued pursuant to this Act. Such order may require that any
17 person violating such regulation or term cease and desist from such
18 violation immediately or within a stated period of time, and may
19 require that such person take such mitigating measures as may be
20 necessary to reverse or reduce any significant adverse effect of
21 such violation.

22 (b) At the request of the Chief, transmitted through
23 and with the approval of the Director, the Attorney General shall
24 institute a civil action in the Commonwealth Trial Court for a
25 temporary restraining order, injunction, or other appropriate remedy

1 to enforce any regulation or order issued under this Act, or any
2 term of any license or permit issued pursuant to this Act, or to
3 collect any penalty assessed under subsection (c) of this section,

4 (c)(1) Any commercial fisherman, hunter, or trapper who
5 violates any regulation or order issued under this Act relating to
6 fish or game, or any term of any license or permit issued under
7 this Act relating to fish or game, may be assessed a civil penalty
8 by the Chief of not more than \$1,000 for each violation.

9 (2) Any person not subject to paragraph (1) of this
10 subsection who knowingly and willfully violates any regulation or
11 order issued under this Act relating to fish or game, or any term
12 of any license or permit issued under this Act relating to fish or
13 game, may be assessed a civil penalty by the Chief of not more than
14 \$1,000 for each violation. Any such person who otherwise commits
15 any such violation may be assessed a civil penalty by the Chief of
16 not more than \$100.

17 (3) Any person engaged in business as an importer or
18 exporter of fish, wildlife, or plants, who violates any regulation
19 or order issued under this Act relating to endangered or threatened
20 species, or any term of any license or permit issued under this Act
21 relating to endangered or threatened species, other than reporting
22 or other administrative requirements, may be assessed a civil
23 penalty by the Chief of not more than \$5,000 for each violation.

24 (4) Any person not subject to paragraph (3) of this
25 subsection who knowingly and willfully violates any regulation or

3. order issued under this Act relating to endangered or threatened
2 species, or any term of any license or permit issued under this Act
3 relating to endangered or threatened species, other than reporting or
4 other administrative requirements, may be assessed a civil penalty by
5 the Chief of not more than \$5,000 for each violation. Any such person
6 who otherwise commits any such violation, or any person who fails to
7 comply with any reporting or other administrative requirements, may be
8 assessed a civil penalty by the Chief of not more than \$500,

9 (5) No penalty may be assessed under this subsection
10 unless the person charged with a violation is given notice and
11 opportunity for a hearing with respect to such violation. Each
12 violation shall be a separate offense. The Chief may collect or
13 compromise any penalty provided for in this subsection. In addition
14 to any other penalty provided for under this subsection for any
15 violation, the Chief may suspend, modify, revoke, or cancel any
16 license or permit issued to the violator under this Act, and the
17 Commonwealth shall not be liable for the payment of any compensation
18 in connection therewith.

19 (d) Any person who knowingly and willfully violates any
20 regulation or order issued under this Act, or any term of any license
21 or permit issued under this Act, shall, upon conviction, be fined not
22 more than \$5,000 or imprisoned for not more than six months, or both,
23 if such violation relates to any endangered or threatened species
24 (other than reporting or other administrative requirements), or be
25 fined not more than \$2,000 or be imprisoned for not more than thirty
26 days, or both, for any other violation,

1 **(e)(1)** Any conservation officer, any other person
2 authorized by the Director, or any person authorized by the Director
3 of Finance, to enforce this Art with respect to any threatened or
4 endangered species, may detain for inspection and inspect any
5 package, crate, or other container, including its contents, and all
6 accompanying documents, upon importation or exportation, may search
7 with or without a warrant any person entering or leaving the
8 Commonwealth, may seize any item including its container and any
9 other contents of such container, found during such inspection or
10 search, which he has reasonable grounds to believe is being imported
11 or exported in violation of this Act, and may arrest with or without
12 a warrant any person entering or leaving the Commonwealth if he has
13 reasonable cause to believe that such person is committing a
14 violation of this Act.

15 **(2)** Any conservation officer making an inspection
16 pursuant to Section 4(c) of this Act may seize, with or without a
17 warrant, any item subject to forfeiture pursuant to subsection (f)
18 of this section,

19 **(3)** Any judge of any court of the Commonwealth may,
20 within the jurisdiction of such court, upon proper oath or
21 affirmation showing probable cause, issue such warrants, orders, or
22 other process as may be required for enforcement of this Act or any
23 regulation issued under this Act, including warrants for the seizure
24 of any item subject to forfeiture pursuant to subsection (f) of this
25 section,

(4) Any item seized pursuant to this section shall be held by any person authorized by the Chief pending disposition of civil or criminal proceedings, or the institution of an action ^{p.} in rem for the forfeiture of such item pursuant to subsection (f) of this section, except that the Chief may, in lieu of holding such item, permit the owner, consignee, or other responsible person to post a bond or other surety satisfactory to the Chief.

(5) Upon forfeiture of any item pursuant to subsection (f) of this section, or the abandonment or waiver of any claim to any item seized pursuant to this subsection, the Director may, with the approval of the Governor utilize such item in the administration of this Act or in any other program or activity of the Department. Otherwise, such item shall be disposed of as provided by laws and regulations applicable to excess property of the Commonwealth: ~~Provided~~ that any endangered or threatened species, or part thereof, or any item made thereof in whole or in part, shall not be disposed of by sale to the general public,

(f)(1) All fish, game, or threatened or endangered species, or part thereof, or any item made of any threatened or endangered species in whole or in part, taken, possessed, sold, purchased, offered for sale or purchase, transported, delivered, received, carried, shipped, exported, or imported in violation of any provision of this Act, any regulation or order issued under this Act., or any term of any license or permit issued pursuant to this Act, shall be subject to forfeiture to the Commonwealth,

1 (2) Any item prohibited by any regulation, order,
2 permit or license issued under this Act, used to aid in the taking of
3 any fish or game, shall be subject to forfeiture to the Commonwealth.

4 (3) Any gun, trap, net, or other equipment, other
5 than a vessel, vehicle, aircraft, or other means of transportation,
6 used to aid the taking, possessing, selling, purchasing, offering
7 for sale or purchase, transporting, delivering, receiving, carrying,
E shipping, exporting, or importing of any endangered or threatened
9 species, or of any part thereof, or of any item made of any endangered
10 or threatened species in whole or in part, in violation of any
11 provision of this Act, any regulation or order issued under this Act,
12 or any term of any license or permit issued under this Act, shall be
13 subject to forfeiture to the Commonwealth upon conviction of a criminal
14 violation pursuant to subsection (d) of this section.

15 (g) Notwithstanding any other provision of this Act, no
16 civil or criminal penalty shall be imposed against any person who
17 committed a violation or an offense based on a good faith belief that
18 he was acting to protect himself or any other individual from bodily
19 harm, or was necessarily acting to protect any pet, livestock, or
20 other farm animal from death or major injury, or to protect against
21 major loss of property, from any endangered or threatened species,

22 (h) Whenever a corporation or other entity is subject to
23 any criminal penalty under this section, any officer or agent of such
24 corporation or entity who knowingly and willfully authorized, ordered,
25 or carried out the proscribed activity shall be subject to the same
26 penalty..

1 (j) The remedies and penalties prescribed in this section
2 shall be concurrent and cumulative, and the exercise of one shall not
3 preclude the exercise of the others, and such remedies and penalties
4 shall be in addition to any other remedy or penalty afforded by any
5 other law or regulation.

6 (k) Hearings under this Act, and appeals from and judicial
7 review of any administrative action or decision under this Act, shall
8 be conducted as otherwise provided by law.

9 (l) Any penalty or fine collected pursuant to this section
10 shall be covered into the General Fund of the Commonwealth Treasury
11 and credited to the appropriate revenue account.

12 Section 11. Changes in Existing Law.

13 (a)(1) Section 1 of the Act to prohibit the taking, hunting,
14 killing or otherwise destroy the natural habitat of goats, fruitbats,
15 birds, coconut crabs and all other edible organisms on the island of
16 Aguiguan (PL 1-18) is repealed.

17 (2) Section 2 of such Act is revised to read as
18 follows:

19 "Section 2. No aircraft or personal landings
20 on the island of Aguiguan shall be allowed without
21 first obtaining a permit from the Mayor of Tinian
22 and Aguiguan, and such landings shall be subject
23 to any reasonable and nondiscriminatory condition
24 stated in such permit."

1 (b) The Act to establish a moratorium on the capturing or
2 taking of coconut crabs and fruit bats in the islands north of Saipan
3 for a period of one year; to establish a season for the taking of the
4 coconut crabs and fruit bats; and for other purposes (NMIL PL 5-21)
5 is repealed.

6 (c) Saipan Municipal Ordinance No. 25-22-1974, concerning
7 the taking of Coconut Crabs within the Municipality; prohibiting sale
8 of the same as handicraft; and for other purposes, is repealed.

9 (d) Section 61 of Title 3 of the Saipan Municipal Code,
10 relative to conservation of deer, is repealed.

11 (e) Chapter 10.10 of the Rota Municipal Code, relative to
12 hunting season and restrictions, is repealed.

13 (f) Title 45 of the Trust Territory Code, as applicable in
14 the Commonwealth pursuant to Section 2 of the Schedule on Transitional
15 Matters of the Constitution, is repealed.

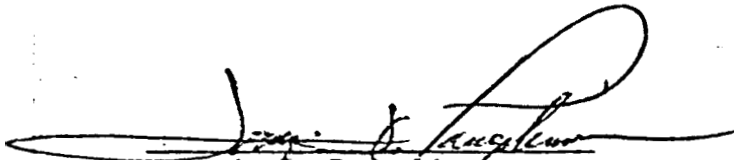
16 (g) The changes in existing law made by this section shall
17 take effect on a date specified in regulations issued by the Director,
18 or 180 days after the effective date of this Act, whichever is earlier.


19 Section 12. Severability. If any provision of this Act, or of
20 any rule, regulation, or order issued under this Act, or any term of
21 any license or permit issued pursuant to this Act, or the application
22 of such provision or term to any person or circumstance, shall be held
23 invalid by a court of competent jurisdiction, the remainder of this
24 Act, or of such rule, regulation, or order, or the remaining terms of
25 such permit, or the application of such provision or term to persons

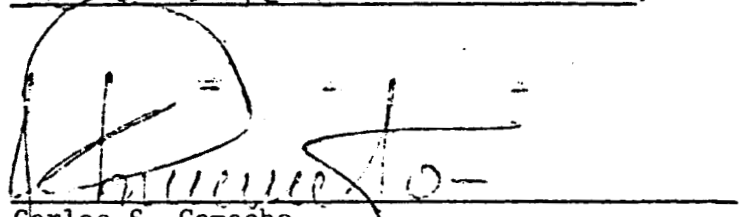
1 or circumstances other than those to which it is held Invalid, shall
2 not be affected thereby.

3 Section 13. Effective Date. Except as provided in Section 11(g)
4 of this Act, this Act shall take effect upon its approval by the
5 Governor, or upon its becoming law without such approval.

ATTEST:


Joaquin A. Pangelinan
Speaker of the House


Esteban T. Pangelinan
House Clerk

October 19th, 1981

Carlos S. Gama
Governor
Commonwealth of the Northern Mariana Islands