Title 45.

Fish, Shellfish and Game.

  2. Trochus, §§ 51 to 53.
  3. Endangered Species Act, §§ 101 to 112.

CHAPTER 1.

GENERAL PROVISIONS.

Sec. 1. Fishing with explosives, poisons, chemicals, etc.

§ 1. Fishing with explosives, poisons, chemicals, etc. — (1) (a) Except as provided in subsection (2) of this section, no person shall knowingly catch any fish or other marine life by means of explosives, poisons, chemicals or other substances which kill fish or marine life, nor shall any person knowingly possess or sell any fish or any other marine life caught by means of explosives, poisons, chemicals, or other substances which kill fish or marine life. The terms "poisons," "chemicals," or "substances" include but are not limited to hypochlorus acid or any of its salts, including bleaches commonly sold under various trade names, such as Clorox and Purex, and bleaching powders, preparations containing ratenone, tephrosin or plant material from Barrington asiatica, cuculus ferrandianus, hura crepiana, piscidia erythrina, tephrosia purpurea, and wikstremia.

(b) Except as provided in subsection (2) of this section, no person shall knowingly place or cause to be placed, in any waters of the Trust Territory, explosives, poisons, chemicals, or other substances with the intent to kill fish or other marine life.

(2) The provisions of subsection (1) of this section shall not apply where the district administrator:

(a) Has granted written permission to use the means prohibited in subsection (1), or

(b) Has determined that the

(i) Purpose of obtaining the fish or other marine life is to avoid the waste or loss of such fish or marine life; and

(ii) Consumption or sale of fish or other marine life caught by any means the use of which is prohibited in subsection (1) is not harmful or hazardous to health and human life.

(3) Nothing in this section shall be construed to prevent any person from catching any fish or other marine life by the use of local roots, nuts, or plants which have the effect of stupefying but which do not kill fish or other marine life.

(4) Any person who violates any of the provisions of this section shall, upon conviction thereof, be fined not less than one hundred dollars or more than two thousand dollars, or imprisoned for not less than six months or more than two years, or both. (Code 1966, § 780; Code 1970, tit. 45, § 1; P.L. No. 4C-35, §§ 1 to 5.)
Dynamiting fish construed. — Crime of dynamiting fish consists of fishing with dynamite, hand grenades or any other form of explosive, or any form of poison, with exception of fishing for scientific purposes under certain circumstances. Ropon v. Trust Territory, 2 TTR 313 (1962).

Crime includes attempt regardless of success. — Crime of dynamiting fish includes attempt to catch fish by use of dynamite, regardless of whether attempt is successful. Ropon v. Trust Territory, 2 TTR 313 (1962).

Failure of explosive to explode is immaterial. — In criminal prosecution for dynamiting fish, it is immaterial that explosive failed to explode and that no fish were caught. Ropon v. Trust Territory, 2 TTR 313 (1962).

Use of appliance in dynamiting fish. — Under statutory crime of dynamiting fish, use of appliance within meaning of prohibition includes situation where appliance was ready and intended for use although not actually put into operation. Ropon v. Trust Territory, 2 TTR 313 (1962).

§ 2. Limitations on taking of turtles. — (1) No hawksbill turtles or sea turtles shall be taken or intentionally killed while on shore, nor shall their eggs be taken.

(2) No hawksbill turtle shall be taken or killed except whose shell is at least twenty-seven inches when measured over the top of the carapace shell lengthwise; no green turtle shall be taken or killed except whose shell is at least thirty-four inches when measured over the top of the carapace shell lengthwise.

(3) No sea turtle of any size shall be taken or killed from the first day of June to the thirty-first day of August inclusive, nor from the first day of December to the thirty-first day of January inclusive.

(4) Notwithstanding any provisions of this section to the contrary, taking of sea turtles and their eggs shall be allowed for scientific purposes when specifically authorized by the High Commissioner. (Code 1966, § 781; Code 1970, tit. 45, § 2; P.L. No. 4C-57, §§ 1 to 3.)

Section binding regardless of location of party or act. — The provisions of this Code relating to the taking of turtles contains no specific indication of any territorial limit and is binding upon all Trust Territory citizens, residents, and any others subject to Trust Territory jurisdiction, regardless of the location of the party or act. Kodang v. Trust Territory, 5 TTR 581 (1971).

§ 3. Control of sponges. — No sponges artificially planted or cultivated shall be taken or molested, except by permission of the High Commissioner. (Code 1966, § 782; Code 1970, tit. 45, § 3.)

§ 4. Control of pinctada margaritifera (black-lip mother-of-pearl oyster shell). — No pinctada margaritifera, commonly known as black-lip mother-of-pearl oyster shell, shall be taken from the first day of August to the thirty-first day of December inclusive; provided, that at no time may any such shell be taken which is less than four inches in minimum diameter as measured across the nacre; and provided further, that such shells, of any size, may be taken at any time for scientific purposes when specifically authorized by the High Commissioner. (Code 1966, § 783; Code 1970, tit. 45, § 4; P.L. No. 4C-57, § 4.)

Cross Reference. — Federated States of Micronesia, Part III, Title 45.

§ 5. Penalties for violation of title. — A person violating any of the provisions of this title for which a different penalty is not otherwise provided shall upon conviction thereof be imprisoned for a period not exceeding six months, or fined not more than one hundred dollars, or both. (Code 1966, §§ 774 and 784; Code 1970, tit. 45, § 5; P.L. No. 4C-35, § 6.)
§ 51. Harvesting restricted. — (1) The harvesting of or in any way intentionally interfering with the growth of trochus in the waters of the Trust Territory is prohibited except as provided in this chapter.

(2) For the purpose of this chapter, the term trochus shall be considered trochus niloticus. The names of trochus maximus, tectus niloticus, and tectus maximus shall be considered names synonymous with trochus niloticus. (Code 1966, § 770; Code 1970, tit. 45, § 51.)

§ 52. Designation of season; rules and regulations for harvesting. — (1) Each district administrator may, with the advice and consent of the High Commissioner, designate and vary from year to year, an open season or seasons during May through September, inclusive, for such period of time as deemed advisable for the harvesting of trochus in his district, and may designate certain reefs or sections thereof that shall be closed for the harvesting of trochus, notwithstanding the fact that the season is open. The open season may vary in different areas or islands within each district. Public notice shall be given in each district of the dates designated for the harvesting of trochus, and the reefs that have been declared closed, if any, by posting in writing in the predominant native language of that local-government area and filing a copy of each designation with the local clerk of courts.

(2) During an open season, any citizen of the Trust Territory may dive for and harvest trochus in the district to which the season applies, within those areas in which he has the right to fish under established local custom; provided, that no trochus shall be taken whose shell is less than three inches in diameter at the base.

(3) Each district administrator may, if it is deemed expedient, and with the advice and consent of the High Commissioner, prohibit the harvesting of trochus during any given calendar year or years. Public notice shall be given of the prohibition in the same manner as the aforesaid notice designating the dates for the harvesting of trochus in subsection (1) of this section. (Code 1966, § 771; Code 1970, tit. 45, § 52; P.L. No. 5-65, § 1.)

§ 53. Authority of district administrator to permit removal and replanting of beds. — (1) If a district administrator determines that underwater operations which will interfere with an existing trochus bed are in the public interest, he may issue a written permit for the removal and replanting of such bed at the expense of the person or persons desiring to conduct the underwater operations.

(2) Each district administrator may at any time authorize the removal and transportation of trochus for the purpose of introduction to other reefs, islands or atolls. (Code 1966, § 773; Code 1970, tit. 45, § 53.)
§ 101. Short title. — This chapter is known and may be cited as the "Trust Territory Endangered Species Act of 1975." (P.L. No. 6-55, § 1.)

§ 102. Findings. — The Congress of Micronesia has determined that certain species of plants and animals are threatened with or in danger of becoming extinct in the Trust Territory. (P.L. No. 6-55, § 2.)

§ 103. Policy. — The indigenous plants and animals of the Trust Territory are of esthetic, ecological, historical, recreational, scientific, and economic value and it is the policy of the government of the Trust Territory to foster the well-being of these plants and animals by whatever means necessary to prevent the extinction of any species or subspecies from our islands or the water surrounding them. (P.L. No. 6-55, § 3.)

§ 104. Administration of chapter. — The provisions of the chapter will be administered by the director of resources and development through the office of the chief conservationist within his department. This administration of the chapter will include the authority to set up conservation programs aimed at conserving endangered and threatened species, including research programs to adequately define which species are in fact endangered or threatened, and including, when necessary, the acquisition of land or aquatic habitat or interest therein for the conservation of resident endangered or threatened species. (P.L. No. 6-55, § 4.)

§ 105. Definitions. — As used in this chapter, unless the context otherwise requires:
  (1) "Trust Territory" means the Trust Territory of the Pacific Islands.
  (2) "Species" means any species or subspecies of scientifically described plant or animal.
  (3) "Plant" means any species of organism in the plant kingdom including, but not restricted to, trees, shrubs, flowers, grasses, algae and fungi.
  (4) "Animal" means any species of organism in the animal kingdom including, but not restricted to, mammals, birds, reptiles, amphibians, fish, clams, crustaceans and corals.
  (5) "Person" means any individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department or instrumentality of the government of the Trust Territory, or of any Trust Territory district or municipality.
  (6) "Or Parts thereof" means, in the case of animals and fish, hide, hair, bone, skeleton, teeth, feathers, skin, scales, tissues or internal organs. In the case of plants, the term means any root, leaf, stem, trunk, bark, fiber, seed, fruit, flower, tissue or extract.
  (7) "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such activity.
(8) "Endangered species" means any species which is in danger of extinction throughout all or a significant portion of its range.

(9) "Threatened species" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

(10) "Commercial activity" means all activities of industry and trade including, but not limited to, buying or selling of commodities, and activities conducted for the purpose of facilitating such buying or selling.

(11) "Import" means to land on, bring into, or attempt to land on, bring into, or introduce into any place subject to the jurisdiction of the Trust Territory.

(12) "Export" means to remove from any land or water area under the jurisdiction of the Trust Territory to any other place in the world.

(13) "Director," when used alone, means the director of resources and development of the Trust Territory.

(14) "Possession" means the personal holding of any endangered or threatened species of plant or animal or parts thereof by any person, or possession of that species on his or her property, land, vehicle, home, place of business, or place of work. (P.L. No. 6-55, § 5.)

§ 106. Prohibited acts. — It is prohibited for any person to take, engage in commercial activity with, hold possession of, or export any threatened or endangered species of plant or animal or parts thereof, so listed in this chapter or in any regulation issued in accordance with this chapter, except in accordance with the exceptions listed in section 107 of this title. (P.L. No. 6-55, § 6.)

§ 107. Exceptions. — (1) This chapter shall not apply to the taking, possession of, or export of species of endangered or threatened plants and animals or parts thereof for scientific purposes, providing the person or persons involved apply for and are issued a permit for such activity by the director of resources and development in accordance with regulations governing the issuance of such permits.

(2) This chapter shall not apply to any species of endangered or threatened plant or animal if that plant or animal becomes a public nuisance or public safety factor, providing that any remedial action be taken only by the Trust Territory government and in accordance with regulations issued in accordance with this chapter for this purpose.

(3) This chapter shall not apply to those species of endangered or threatened plants and animals or parts thereof which have been taken under authority of subsection (1) of this section and raised successfully in commercial quantities under controlled conditions of aquaculture, mariculture, game farming, agriculture or horticulture, providing that the individuals or quantity lots of these species or parts thereof are identified and identifiable as having been raised under these controlled conditions, such identification to be in accordance with regulations issued under this chapter.

(4) This chapter shall not apply in those cases where the director has determined that the taking from certain islands of certain species of endangered or threatened plants or animals for subsistence food or for old traditional uses does not further endanger the species involved; provided, that the species or parts thereof involved are not subjected to commercial activity nor exported; and further provided, that this exception will only apply to the bona fide indigenous inhabitants of the islands excepted by the director.

(5) This chapter shall not apply to any person in innocent possession of any species of endangered or threatened plant or animal or parts thereof, except that such plants or animals or parts thereof will be confiscated by the Trust Territory and disposed of in accordance with regulations issued under this chapter.
(6) This chapter will not apply to any nonliving species of endangered or threatened plant or animal or parts thereof, if a person was in possession of same prior to this chapter becoming law; and provided, that the person gives adequate evidence of such prior possession in accordance with criteria contained in regulations issued in accordance with this chapter. (P.L. No. 6-55, § 7.)

§ 108. Regulations. — The director of resources and development shall issue regulations, subject to the approval of the High Commissioner, applying to this chapter and including a listing of the species of endangered and threatened plants and animals of the Trust Territory. These regulations shall have the force and effect of law. (P.L. No. 6-55, § 8.)

§ 109. Importation of endangered species. — In anticipation of international cooperation and reciprocation, it is prohibited to import into the Trust Territory any species of endangered or threatened plant or animal or parts thereof which is listed by the convention on international trade in endangered species of wild fauna and flora. This list may be a part of the regulations applying to this chapter. (P.L. No. 6-55, § 9.)

§ 110. Importation of exotic plants and animals. — Since exotic plants and animals not already established in the Trust Territory can cause ecological upsets, compete with, prey upon, and introduce serious or devastating diseases which could further endanger our indigenous plants and animals or drive them to extinction, it is prohibited to import such exotic plants and animals or parts thereof into the Trust Territory except under permit by the director as defined in the regulations authorized by this chapter, except that beneficial insects and biological control microorganisms may be imported in accordance with the Trust Territory plant and animal quarantine laws. (P.L. No. 6-55, § 10.)

§ 111. Confiscation of plants, equipment, etc., for violations. — Any endangered species of plant or animal or parts thereof, held by any person in contravention of any of the other sections of this chapter, may be confiscated by the Trust Territory government and disposed of in accordance with the regulations applying to this chapter, and further, any gun, weapon, spear, knife, trap, net, fishing gear, boat, engine, or vehicle used for the purpose of violating any of the provisions or regulations of this chapter may be confiscated and disposed of by the Trust Territory government in accordance with the regulations applying to this chapter. (P.L. No. 6-55, § 11.)

§ 112. Penalties for violation of chapter. — Any person found guilty of violating any of the provisions of this chapter shall be fined not more than ten thousand dollars, or imprisoned for not more than one year, or both. (P.L. No. 6-55, § 12.)
DISTRICT ENTITIES FOR DEVELOPMENT OF MARINE RESOURCES.

Sec. 166. Annual report.
Sec. 167. Succession in absence of entity


§ 162. Authorized; powers. — Each district government is authorized to establish by law an entity to promote, develop, and support commercial utilization of living marine resources within its jurisdiction. The entity shall be composed of representatives of district parties with a significant interest in the utilization of living marine resources. The entity shall be provided by law with the power and authority to carry out the purpose stated above, which powers may include but need not be limited to the following:

1. To provide guidance to the district government in establishing marine resources development policy;
2. To make regulations concerning the exploitation of living marine resources as permitted by law;
3. To serve as a conduit for public funds to establish and operate facilities required for commercial fisheries development, to conduct pilot fishing operations and to participate in large scale commercial fishing and related activities which are not suitable for investment by the private sector;
4. To establish and support programs to promote, support and guide fishing cooperative associations. (P.L. No. 7-111, § 1.)

§ 163. Succession. — Upon the establishment of a district entity pursuant to this chapter the provisions of former sections 151 to 161 of this title shall cease to apply in that district and all assets, liabilities and activities of the district fishing authority created pursuant to those provisions shall be transferred to the new district entity. (P.L. No. 7-111, § 2.)

§ 164. Funding. — Funds for the operation and activities of the district entity created pursuant to this chapter may be provided by the Trust Territory government, the Congress of Micronesia, the district legislature, the net earnings from its activities, and tax revenues generated from the sale of supplies and provisions to foreign fishing vessels entering ports within the district. (P.L. No. 7-111, § 3.)

§ 165. Authorization of appropriations for 1979 and 1980. — The sum of two hundred forty thousand dollars for each of the fiscal years 1979 and 1980 is authorized to be appropriated from the general fund of the Congress of Micronesia to be made available to the district entity created pursuant to this chapter in the amount of forty thousand dollars per district per year or so much thereof as may be necessary, provided that matching funds are provided by appropriations from the district legislature. (P.L. No. 7-111, § 4.)

§ 166. Annual report. — Each district entity created pursuant to this chapter shall prepare an annual report on its finances and activities to be submitted to the district legislature and the Congress of Micronesia within twenty days of the completion of each calendar year. (P.L. No. 7-111, § 5.)
§ 167. Succession in absence of entity. — If no district entity is created pursuant to this act prior to May 1, 1979, the district administrator shall be responsible for the promotion, support and guidance of fishing cooperative associations, but he shall terminate the loan fund program established by section 157 and shall be responsible for the collection of outstanding loans as the payments become due and shall return to the general fund of the Congress of Micronesia such portion of those collections as were provided originally by the Congress of Micronesia, together with the interest collected thereon. (P.L. No. 7-111, § 7.)