

**AN ACT**

To designate Mañagaha Island and its surrounding waters as a Marine Conservation Area; to provide for management policies, administration and enforcement of marine conservation areas; to amend 1 CMC § 2268 and PL 10-57 as further amended; and for other purposes.

**BE IT ENACTED BY THE TWELFTH NORTHERN MARIANAS COMMONWEALTH  
LEGISLATURE:**

Section 1. Short Title. This act may be cited as the Mañagaha Marine Conservation Act of 2000.

Section 2. Findings and Purpose. The Legislature finds that Article XIV, Section 1 of the Commonwealth Constitution, mandates that "the marine resources shall be managed, controlled, protected and preserved by the Legislature for the benefit of the people." The Legislature also finds that Mañagaha Island and its surrounding waters contain historical, cultural, and natural resources that must be protected. Therefore the purpose of this legislation is to designate certain areas as marine conservation areas through strict management programs. These management programs shall ensure that areas such as Mañagaha Island and its surrounding waters continue to exist as protected recreational and educational areas; safe habitats for fish and other marine life to exist and propagate for the continued use and enjoyment for the people of the Commonwealth and its visitors. This act is the product of collaborative efforts between the Administration and the Legislature to correct deficiencies in a similar bill enacted by the Eleventh Northern Marianas Legislature.

Section 3. Definitions.

- (a) "Department" means the Department of Lands and Natural Resources.
- (b) "Marine conservation area" or "conservation area" means any marine conservation area established by law to serve the purpose(s) for which it was established.

- (c) "Secretary" means the Secretary of the Department of Lands and Natural Resources.
- (d) "Division" means the Division of Fish and Wildlife.
- (e) "UTM" means Universal Transverse Mercator.

Section 4. Mañagaha Marine Conservation Area Established: Purpose.

- (a) There is hereby established a marine conservation area called the "Mañagaha Marine Conservation Area," consisting of the Isle of Mañagaha and its surrounding waters and more specifically designated by the following UTM coordinates: Isle of Mañagaha at (UTM Zone 55 361436.9197 and 1685135.4486) and its surrounding waters encompassed within the following four points: Point A, North (UTM Zone 55 361737.3046 and 1686445.4685); Point B, East (UTM Zone 55 363322.1267 and 16685023.8245); Point C, South (UTM Zone 55 361557.5867 and 1683844.8446); and, Point D, West UTM Zone 55 359411.5434 and 1684606.0028). (See Exhibit A-1 which is incorporated by reference hereto and made a part of this act). Within 120 days from the effective date of this act, but not later than the promulgation of rules and regulations hereunder, the Secretary shall establish by metes and bounds and physically mark those marine conservation area boundaries with permanent, easily identifiable marine marking devices that shall be maintained indefinitely by the Department as provided for by regulations.
- (b) The purpose of the Mañagaha Marine Conservation Area is to protect and preserve, by strict regulatory enforcement, the land and water resources, flora, fauna, and marine life that are found in the conservation area for the enjoyment of future generations of Commonwealth residents and visitors.

Section 5. Marine Conservation Section Established. There is hereby established within the Division a Section called the Marine Conservation Section to implement the provisions of this act.

Section 6. Fundamental Management Policies. The Department shall have the exclusive authority to manage marine conservation areas. However, the Department may coordinate and assist other Commonwealth or Federal agencies in performing their emergency or other agency functions within marine conservation areas, if the exercise of such functions is

deemed prudent or necessary by the Department, or the performance of such functions is clearly permitted by law within marine conservation areas. Except as provided herein, the following provisions shall apply to the marine conservation areas:

- (a) No harvesting or catching of fish or other marine life or natural resources within the designated boundaries of the conservation area shall be permitted, except as approved by regulation for scientific research, cultural and traditional practices, or educational studies.
- (b) No motorized or non-motorized watercraft, floating or submersible, or other means of aquatic transport shall be permitted within the conservation area, except as allowed by regulation for enforcement, scientific, recreational and educational purposes, or the transport of persons to and from the isle of Mañagaha, and for any other purpose deemed necessary by the Division to advance the policies set forth by this act and regulations.
- (c) No swimming, diving, snorkeling or other human activity shall be permitted within the conservation area, except as provided by regulation.
- (d) No person may engage in any exempt activity in subsections (a) or (b) of this section, unless a permit has been issued by the Division for such purpose pursuant to regulations.
- (e) The Division may further prohibit by citation, order, rule or regulation any activity which in any way would make a significantly negative or long-lasting impact on the conservation area.

Section 7. Education. The Division shall provide to the Board of Education and other non-public educational institutions the necessary assistance for the implementation of any curriculum or course of instruction that actually takes place within a conservation area that the Board or a non-public educational institution may establish for its students; provided that such curriculum or course of instruction is consistent with the intent of this act and has a negligible impact on the conservation area.

Section 8. Enforcement, Remedies, and Penalties.

- (a) The Division shall develop and keep a log of daily activity relevant to the operation and management of the conservation area. Upon request by the Department, other enforcement agencies, including but not limited to, the Department of Public Safety, Department of Public Health, the Office of

Emergency Operations and the Coastal Resources Management Office shall render the necessary assistance to enforce the provisions of this act.

- (b) Any person who knowingly violates any provision of this act or regulations hereunder shall be fined not less than \$500.00 but not more \$10,000.00. Each day that a violation occurs shall constitute as a separate violation. Violations of this act or any rule, regulation, or order or wherein a monetary penalty is sought shall be adjudicated in an administrative proceeding as provided under the Administrative Procedure Act (1 CMC § 9101 et seq.)
- (c) Any item seized pursuant to enforcement of this act and its regulations shall be held by any person authorized by the Department pending disposition of civil or criminal proceedings, or the institution of an action *in rem* for the forfeiture of such item, except that after Notice and Public hearing the Department 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 Department.

Section 9. Funding. Funding shall be annually appropriated by the Legislature.

Section 10. Regulations. Within 180 days after the enactment of this Act, the Secretary shall promulgate rules and regulations necessary to carry out the intent of this Act.

Section 11. Amendments.

- (a) 1 CMC § 2268(c) is hereby amended to read:  
"(c) To approve and establish curricula and courses of instruction, including marine conservation and environmental management, and administrative policies of the Public School System, including special projects and federally funded programs;"
- (b) Public Law 10-57 as amended is hereby further amended to add in Section 2 after § 2653 a new subsection (p) to read:  
"(p) To conduct administrative adjudication for the Department and its subdivisions as required by law."

Section 12. Severability. If any section of this Act or any regulation issued under the authority of this Act should be declared invalid or unenforceable by a court of competent jurisdiction, the judicial determination shall not affect the validity of the Act as a whole, other than the particular part declared invalid or unenforceable.

Section 13. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability civil or criminal, which shall already be in existence at the date this Act becomes effective.

Section 14. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

**CERTIFIED BY:**

/s/ Benigno R. Fitial  
**BENIGNO R. FITIAL**  
SPEAKER OF THE HOUSE

**ATTESTED TO BY:**

/s/ Evelyn C. Fleming  
**EVELYN C. FLEMING**  
HOUSE CLERK

Approved this 8<sup>th</sup> day of August, 2000

/s/ Pedro P. Tenorio  
**PEDRO P. TENORIO**  
**GOVERNOR**  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS