CHAPTER 73
CUSTOMS AND QUARANTINE AGENCY

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Article 2 Carrier Off-duty Services Revolving Fund
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2024 NOTE: Pursuant to 5 GCA § 1510, I Maga'hågan/Maga'låhen Guåhan means the "Governor of Guam" and I Maga'håga/Maga'låhi means the "Governor." Pursuant to 2 GCA § 1101, I Liheslaturan Guåhan means the "Guam Legislature" and I Liheslatura means the "Legislature."

Past print and online publications of the GCA included an undated annotation describing the creation of the Customs and Quarantine Agency. The information from this undated annotation is incorporated herein; therefore, the undated annotation will be omitted from future publications: P.L. 22-112:2 (Apr. 11, 1994) enacted a new 5 GCA § 3127 that established the Customs and Quarantine Agency as an agency separate and apart from the Department of Commerce, effective Oct. 1, 1994. The following sections of P.L. 22-112:3 also became effective on Oct. 1, 1994:

> (a) Transfer of Personnel, Property, and Equipment from the Division to the New Customs and Quarantine Agency. All personnel of the Division shall be transferred to the Agency established in §3127, Title 5, Guam Code Annotated, as set out in Section 2 of this Act, with all duties, responsibilities, and compensation intact, and with no lapse in service to the government of Guam. In addition, all the property and equipment of the Division shall be transferred to the Agency.
>
> (b) Enforcement of Laws Relative to Customs and Quarantine. The Agency is authorized to implement and enforce the provisions of Chapter II of Title XLIV of the Government Code [this Chapter of the Guam Code Annotated] and all rules, regulations, and executive orders relative to customs and quarantine functions of the government of Guam.

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§ 73101. Imports Prohibited.

All persons are prohibited from importing into Guam the following:

(a) Printed matters or pictures of a seditious nature or of an obscene or immoral character.

(b) Any article, manufactured or for manufacture or sale, or adulterated or misbranded or deleterious food, drugs, medicines and liquors.

(c) [Repealed.]

SOURCE: GC § 47100. Subsection (c) added by P.L. 11-193:1 (Dec. 7, 1972). Amended by P.L. 13-187:231 (Sept. 2, 1976). Subsection (c) repealed by P.L. 14-141:18 (Aug. 31, 1978).

NOTE: P.L. 14-141 added a new Article to 9 GCA Chapter 67 (Uniform Controlled Substances Act) specifically dealing with the importation of controlled substances. Thus, this subsection became superfluous and was repealed accordingly.

CROSS-REFERENCES: 9 GCA Chapter 67, Art. 6, commencing with §67.88.

See 10 GCA § 32303 regarding the importation of dogs and cats and other animals.

§ 73102. Powers of Customs Officers.

Any Customs Officer may:

(a) arrest persons who violate a prohibition contained in Article 6 of Title 9 GCA Chapter 67;

(b) make seizures of any controlled substance imported into Guam in violation of Article 6 of Title 9 GCA Chapter 67;

(c) arrest persons who violate a prohibition contained in Chapter 47 of Title 9 GCA; and

(d) make seizures of any forged or counterfeit goods imported into Guam in violation of Chapter 47 of Title 9 GCA.

SOURCE: GC § 47100.1, added by P.L. 11-193:2 (Dec. 7, 1972). Amended by P.L. 13-058:2 (Sept. 26, 1975). Repealed and reenacted by P.L. 14-141:18 (Aug. 31, 1978). Amended by P.L. 18-007:231 (July 8, 1985); P.L. 27-072:4 (Feb. 10, 2004).

2024 NOTE: Subsection designations modified pursuant to authority granted by 1 GCA § 1606.

NOTE: GC § 47100.2 (Drug Amnesty Box at Airport and Customs Form) was added by P.L. 14-143:20 (Sept. 29, 1978) and repealed by P.L. 17-044:1 (Jan. 18, 1984).

§ 73103. Classification of Persons Arriving in Guam.

(a) Persons arriving from foreign countries are divided into two classes for the purpose of these regulations, first, residents of Guam and second, all other persons.

(b) Personnel of the Armed Forces of the United States ordered to duty in Guam or to any U.S. ship stationed at Guam are classified for customs purposes as residents of Guam effective from date of reporting for duty.

(c) Any United States citizen coming to reside in Guam for a period of longer than thirty days will be regarded as a resident of Guam for the purpose of customs regulations.

SOURCE: GC § 47101.

§ 73104. Entry by Consignee.

(a) Requirement and time. Except as otherwise provided, the consignee of imported merchandise shall make entry therefor either in person or by an agent authorized by him in writing to the Customs House

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within 48 hours, exclusive of Sundays and holidays, after the entry of the importing vessel, unless the collector authorized in writing, a legal time.

(b) Packages included. If any of the certificates or documents necessary to make entry of any part of merchandise arriving on one vessel and consigned to one consignee have not arrived, such part may be entered subsequently, and notation of the packages or cases to be omitted from the original entry shall be made thereon. One or more packages arriving on one vessel addressed for delivery to one person and imported in another package containing packages addressed for delivery to other persons may be separately entered. All other merchandise arriving on one vessel and consigned to one consignee shall be included in one entry.

(c) Entry on carrier's certificate. Any person certified by the carrier bringing the merchandise to the port at which entry is to be made, to be the owner or consignee of the merchandise, or an agent of such owner or consignee, may make entry thereof either in person or by an authorized agent.

(d) Entry on duplicate bill of lading. Any person may, upon the production of a duplicate bill of lading signed or certified to be genuine by the carrier bringing the merchandise to the port at which entry is to be made, make entry for the merchandise in respect of which such bill of lading is issued, except that such person shall make such entry in his own name.

SOURCE: GC § 47102.

§ 73104.1. Classification of Merchandise for the Purpose of Entry Compliance.

(a) For the purpose of entry clearance and taxes, exemptions, or drawbacks applicable to imported or exported goods under Title 11, Guam Code Annotated, such goods shall be classified using the Harmonized Commodity and Coding System (HCCS) of classification and its related Explanatory Notes as maintained by the World Customs Organization.

(b) The rate of taxes, exemptions, or drawbacks applicable to goods to be imported, goods imported, or goods to be exported shall correspond to the classification of the goods in the Customs Harmonized Commodity and Coding Classification Schedule Regulation.

(c) An importer, licensee, or owner of the goods required to make an entry for goods under this Act shall correctly classify imported goods in accordance with § 73104.1(a) of this Article.

SOURCE: P.L. 37-082:4 (Apr. 2, 2024).

§ 73104.2. Access to the Customs Harmonized Commodity and Coding Classification Schedule.

(a) The Director of Guam Customs and Quarantine Agency shall:

(1) ensure that the Customs Harmonized Commodity and Coding Classification Schedule, as amended, is published on the Guam Customs and Quarantine Agency website and is publicly available free of charge; and

(2) ensure that copies of the Customs Harmonized Commodity and Coding Classification Schedule, as amended, are available for purchase at a reasonable price.

(b) Nothing in this Section prevents the Director of Guam Customs and Quarantine Agency from making other information available along with the Harmonized Commodity and Coding Classification Schedule. The Director of Customs shall ensure that it is clearly indicated that the other information are not part of the Customs Harmonized Commodity and Coding Classification.

SOURCE: P.L. 37-082:5 (Apr. 2, 2024).

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§ 73104.3. Amendments to the Harmonized Commodity and Coding System (HCCS).

(a) The Director of the Guam Customs and Quarantine Agency may, in accordance to 5 GCA Chapter 9, amend the Customs Harmonized Commodity and Coding Schedule for uniformity with amendments approved by the World Customs Organization.

(b) No amendment made under this Section shall alter the taxes, exemptions, or drawbacks duty applicable to goods classified under any item or heading in the Harmonized Commodity and Coding Schedule.

SOURCE: P.L. 37-082:6 (Apr. 2, 2024).

§ 73104.4. Customs Automated System and Information Sharing.

(a) Only individuals designated by the Director of Guam Customs and Quarantine Agency may access the Customs Automated System to carry out any duties pursuant to this Act or any other statutory provisions of Guam law.

(b) Notwithstanding any other provision of law, the Director of Guam Customs and Quarantine Agency, through a memorandum of agreement, may permit access to records or information collected under this Article to other government of Guam agencies for the performance of their official duties. Accessibility will require the integration of the agency's regulating or enforcement processes into the Customs Automated System, and, for uniformity, incorporate the Harmonized Commodity and Coding Schedule for identification of merchandise the agencies regulate.

(c) Through such agreements to access records or information collected under this Article, the Director of Guam Customs and Quarantine Agency may institute reasonable fees for the sustainability, upgrades, and maintenance of the Harmonized Commodity and Coding Schedule and the Customs Automated System.

SOURCE: P.L. 37-082:7 (Apr. 2, 2024).

§ 73105. Consignee.

All articles, goods, wares or merchandise imported into Guam for the purpose of these regulations shall be deemed and held to be the property of the person to whom the same may be consigned; but the holder of any bill of lading, drawn to the order and indorsed by the co-signer, shall be deemed the consignee thereof; and in case of the abandonment of any article, goods, wares or merchandise to the underwriters, the latter may be recognized as the consignee.

SOURCE: GC § 47103.

§ 73106. Prohibited Imports.

(a) Importation Prohibited. If the laws or regulations of any country, dependency, province or other subdivision of government restrict the taking, killing, possession or exportation to the United States, or its possessions, of any wild mammal or bird, alive or dead, or restrict the exportation to the United States or its possessions or any part or product of any wild mammal or bird, whether raw or manufactured, no such mammal or bird or part or product thereof shall be imported into Guam from such country, dependency, province or other subdivision of government, directly or indirectly, unless accompanied by a certification of the United States consul, for the consular district in which is located the port or place from which such mammal or bird, or part or product thereof, was exported from such country, dependency, province, or other subdivision of government, that such mammal or bird, part or product thereof, has not been acquired or exported in violation of the laws or regulations of such country, dependency, province or other subdivision of government.

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(b) Forfeiture. Any mammal or bird, alive or dead, or any part or product thereof, whether raw or manufactured imported into Guam in violation of the provisions of the preceding subdivision shall be subject to seizure and forfeiture under the customs regulations. Any such article so forfeited may, in the discretion of I Maga'håga/Maga'låhi, be placed with the departments or bureaus of the government or with societies or museums, for exhibition or scientific or educational purposes, or destroyed or sold.

(c) When Section not Applicable. The provisions of this section shall not apply in the case of:

(1) Prohibited importations - articles, the importation of which is prohibited under the provisions of regulations, or of any laws;

(2) Scientific or educational purposes - wild mammal or birds, alive or dead, or parts or products thereof, whether raw or manufactured, imported for scientific or educational purposes;

(3) Certain migratory game birds - migratory game birds brought into Guam by bona fide sportsmen returning from hunting trips in such country, if at the time of importation the possession of such birds is not prohibited by the laws of such country or of the United States.

SOURCE: GC § 47104.

CROSS-REFERENCES: *See* 5 GCA § 63124 for further laws governing the importation of game birds or animals.

2024 NOTE: Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510.

NOTE: GC § 47104.1 (Permitting Slot Machines at the Air Terminal Gaming Zone) was enacted by P.L. 13-135:1 (Feb. 3, 1976) and repealed, together with the Zone, itself, by P.L. 19-019:28 (Aug. 22, 1998).

§ 73107. Guard on Vessels.

Every commercial vessel entering a port of Guam or anchoring or "lying to" in Guam waters shall be placed under guard during her stay.

SOURCE: GC § 47105.

§ 73108. Clearance Requirements.

(a) Any Customs Officer may board and examine any privately owned, privately leased, commercially owned, or commercially leased aircraft, vessel, or contrivance arriving into Guam when it is necessary to carry out the provisions of applicable laws of Guam or the United States, any rule or regulation promulgated thereunder, any regulatory or enforcement agreement entered, or any public health and quarantine purpose, and may further require the master or captain thereof to exhibit for examination by the Customs Officer the manifest or any documents or papers, or any trunk, package or cargo on board, or any compartment, storage area, cabin, galley, cockpit, lavatory, or any section of the vessel or aircraft. Any master, captain, or person on any conveyance shall submit to the lawful instructions of a Customs Officer from the time of boarding until such time the Customs Officer disembarks and authorization to proceed with unloading operations is granted. Any master, captain, or person on any conveyance who fails to abide by lawful instructions or obstructs the official duties of a Customs Officer shall be liable for fines and penalties under this Chapter in addition to appropriate offenses contained in 9 GCA Chapter 55.

(1) Prior Notice Requirement. Under penalty and apart from the manifest requirements provided in this Chapter, masters or their authorized agent of all vessels or aircrafts must provide a notice of arrival with the following information to the appropriate customs port of entry:

(A) For Vessels. Forty-eight (48) hours prior to arrival, a notice of arrival containing the following information shall be submitted:

(i) vessel name, voyage number, and national country of registry;

(ii) type of vessel;

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(iii) date of arrival;

(iv) Guam seaport of arrival;

(v) break-water/or pilot on board time;

(vi) assigned pier or wharf of berth;

(vii) berth time;

(viii) number of crew and passengers;

(ix) last port of entry; and

(x) purpose of arrival into Guam.

(B) For Aircraft. Thirty (30) minutes upon departure from origin, commercial, privately owned, or privately operated aircrafts intended to arrive in Guam shall submit a notice of arrival containing the following information:

(i) Guam airport or airfield of arrival;

(ii) aircraft operating name, flight number, registration number, and country of registration;

(iii) origin and last airport of departure;

(iv) date and estimated time of arrival; and

(v) number of transiting and terminating crew and passengers.

(C) Exceptions. Vessel and aircraft arriving into Guam under exigent or emergency circumstances wherein Guam was not their intended destination, are exempted from Parts (A) and (B) of this Subsection. Notwithstanding the prior notice requirement, vessels or aircraft arriving under the above circumstances shall require clearance as mandated herein.

(b) Any individual who is not a Customs Officer or is not duly authorized by Customs, and who goes on board any vessel, aircraft, or conveyance before entry and clearance has thereto been granted, shall be fined a penalty under this Chapter, or imprisoned for not more than six (6) months, or both. The master or pilot of such vessel, aircraft, or conveyance may take such person into custody, and deliver him up forthwith to any Customs Officer or law enforcement officer, to be taken by him before any committing magistrate, to be dealt with according to law.

(c) Under penalty as prescribed by this Chapter, no vessel, aircraft, or conveyance may commence any activity or unloading operations without Customs' presence, permit or authorization and clearance. The master or agent of each privately owned, privately operated, commercially owned, or commercially leased vessel, aircraft, or contrivance shall accomplish clearance requirements within five (5) days after meeting the forty-eight (48) hours required for entry. Every consignee of imported merchandise after having accomplished entry for their imported merchandise, either in person or by an agent authorized by him in writing to the Customs House shall accomplish clearance requirements within five (5) days following entry, exclusive of Sundays and holidays, unless the Collector is authorized in writing, a legal time.

(d) Departures.

(1) No aircraft, vessel, or contrivance shall be cleared for departure until all the cargo manifested for import to Guam has been unladed, entry has been made, and was properly accounted for.

(2) Prior to the departure of any aircraft, vessel, or contrivance, the master shall deposit with the Customs Officer at the port or airport, a manifest of the outward cargo of such vessel or aircraft,

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specifying the marks and numbers of packages, a description of their contents, with the names of shippers and consignees; and also the names of passengers and their destination. A departure clearance will then be granted to the vessel or aircraft.

SOURCE: GC § 47106. Amended by P.L. 35-105:2 (Oct. 30, 2020).

2021 NOTE: This provision was formerly entitled "Clearing Vessels" and was renamed by P.L. 35-105:2 (Oct. 30, 2020).

§ 73109. Definitions.

(a) "Vessel" means a craft used, or capable of being used, for transportation on water, and includes every description of watercraft or other contrivance used, or capable of being used as a means of transportation on water, but does not include aircraft.

(b) "Aircraft" means any craft now known or hereafter invented for transportation use in the air, and includes every description of craft or other contrivance used or capable of being used as a means of transportation in flight or in the air.

(c) "Merchandise" means goods, wares, and chattels of every description, and includes merchandise the importation if which is prohibited.

(d) "Person" includes any individual, firm, co-partnership, joint venture, association, corporation, trust, or any group or combination action as a unit and the plural, as well as the singular number as may be appropriate.

(e) "Master" means the person having the command of the aircraft, vessel, or contrivance.

(f) "Day" means the time from 8:00 a.m. to 5:00 p.m. (or from 0800 hours to 1700 hours).

(g) "Night" means the time from 5:00 p.m. to 8:00 a.m. the next day (or from 1700 hours to 0800 hours the next day).

(h) "Collector" means the Director of Customs, sworn Customs Officers, and any persons authorized to perform the duties of the Collector of Customs.

(i) "Entry" means the manner of submitting the required documentation or electronic data required by this Chapter to the appropriate Customs Office to secure the release of imported or exported merchandise, clearance of arriving or departing conveyances, and arriving individuals.

(j) "Customs Storehouse" is a place, facility, location, or warehouse designated and authorized by the Collector of Customs for the housing and securing of unladed cargo, baggage, merchandise, and property awaiting formal customs entry and permission for release.

SOURCE: GC § 47107. Amended by P.L. 35-105:2 (Oct. 30, 2020).

§ 73110. Manifest.

The master of every aircraft, vessel, or contrivance arriving in Guam shall have on board a manifest for passengers, crew, and cargo destined for Guam, signed by such master under oath as to the truth of the statement therein contained. Failure to provide such manifests in the prescribed manner and or requirements constitutes a penalty as contained herein. Such manifests shall contain all of the following information as required:

(a) For vessels:

(1) Cargo Manifest:

(A) The names of the ports or places at which the merchandise was taken on board.

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(B) The name, description and build of the vessel, the true measure or tonnage thereof, the port to which such vessel belongs and the name of the master of such vessel.

(C) A detailed account of all merchandise destined for Guam on board such vessel, with the marks and numbers of each package, and the number and description of the packages according to their usual name or denomination, such as barrel, keg, hogshead, case, or bag.

(D) The names of the persons to whom such packages are respectively consigned in accordance with the bills of lading issued therefor.

(E) The master or agent of each privately owned, privately operated, commercially owned, or commercially leased vessel arriving into Guam from any place outside of Guam must transmit to the Agency an electronic passenger, crew, and cargo manifest. The electronic manifest must be transmitted as required herein to the Customs Office in charge of the clearance for the arriving vessel. The electronic manifest shall contain the names of the several passengers and crew aboard the vessel, stating whether cabin or steerage passengers, with their baggage, specifying the number and description of the pieces of baggage belonging to each, and a list of all baggage not accompanied by passengers.

(F) An account of the sea stores and ship's stores on board the vessel.

(G) If the vessel is from a United States port the manifest shall be certified by the Collector of the port sailing. If from a foreign port, by the United States consul or commercial agent of the port. If there is no United States consul or agent, then by the foreign government consul or agent.

(2) Crew and Passenger Manifest:

(A) full name (last, first, and, if available, middle);

(B) date of birth;

(C) gender (F = female; M = male);

(D) citizenship;

(E) country of residence;

(F) status on board the vessel;

(G) travel document type (e.g., P = passport; A = alien registration card);

(H) passport number, if a passport is required;

(I) passport country of issuance, if a passport is required;

(J) passport expiration date, if a passport is required;

(K) United States of America alien registration number, where applicable;

(L) physical address while in Guam (number and street, city, state, and zip code);

(M) vessel name and voyage number;

(N) date of vessel arrival; and

(O) manifest for crew and passengers shall be separated and distinguishable.

(b) For aircraft:

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(1) Cargo Manifest. The master or agent of each privately owned, privately operated, commercially owned, or commercially leased aircraft arriving into Guam from any place outside of Guam must transmit to the Agency an electronic manifest accounting for all terminating, transiting, revenue, and non-revenue cargo. The electronic manifest must be transmitted as required herein to the Customs Office in charge of the clearance for the arriving aircraft in the format as follows:

(A) the name, address, and telephone number of each importer or consignee; and the name, address, and telephone number of the shipper to such importer or consignee, unless the Collector determines that the confidentiality of any particular information is necessary for the good of the Agency or national security;

(B) airway bill of lading number of each cargo destined for Guam;

(C) the general description of the cargo;

(D) the number of packages and gross weight;

(E) the name of the aircraft carrier and flight number;

(F) the port of loading;

(G) the port of discharge; and

(H) the country of origin of the shipment;

(2) Crew and Passenger Manifest. The master or agent of each privately owned, privately operated, commercially owned, or commercially leased aircraft arriving into Guam from any place outside of Guam must transmit to the Agency an electronic passenger and crew manifest for all persons terminating, transiting, revenue and non-revenue passengers. The electronic manifest must be transmitted as required herein to the Customs Office in charge of the clearance for the arriving aircraft in the format as follows:

(A) full name (last, first, and, if available, middle);

(B) date of birth;

(C) gender (F = female; M = male);

(D) citizenship;

(E) country of residence;

(F) status on board the aircraft;

(G) travel document type (e.g., P = passport; A = alien registration card);

(H) passport number, if a passport is required;

(I) passport country of issuance, if a passport is required;

(J) passport expiration date, if a passport is required;

(K) United States of America alien registration number, where applicable;

(L) physical address while in Guam (number and street, city, state, and zip code);

(M) passenger name record locator, if available;

(N) industry code of where transportation to Guam commenced;

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(O) industry code of final port/place of destination for in-transit passengers;

(P) airline carrier code;

(Q) flight number;

(R) passenger revenue status (revenue or revenue-exempt);

(S) total number of revenue passengers and non-revenue;

(T) specific reason for revenue-exempt status for each revenue-exempt passenger reported;

(U) date of aircraft arrival; and

(V) manifest for crew and passengers shall be separated and distinguishable.

(c) Discrepancies. If any discrepancy occurs in any way with respect to any manifest or bill of lading data, the owner or operator of the vessel, aircraft, or contrivance, or any party responsible for such discrepancy, shall be liable for any fine or penalty prescribed by law with respect to such discrepancy or violation. The Agency may take appropriate action against any of the parties.

(d) Public Disclosure of Certain Manifest Information. The Collector, in order to allow for the timely dissemination and publication of the information listed, shall adhere to the provisions as set forth in the Sunshine Reform Act of 1999, 5 GCA Chapter 10. In accordance with 5 GCA Chapter 10, and when requested, the Collector shall make available for public disclosure the following information:

(1) the general character of the cargo;

(2) the number of packages and gross weight;

(3) the port of loading;

(4) the port of discharge; and

(5) the country of origin of the shipment.

SOURCE: GC § 47108. Amended by P.L. 35-105:2 (Oct. 30, 2020).

§ 73111. Manifest Delivered to Customs Officer.

The master, owner, or authorized agent of an aircraft, vessel, or other contrivance required to make entry, shall submit to the Customs Officer the required manifests in the times set forth in this Section, as well as the format and manner as prescribed in § 73110. Times set forth for delivery of each manifest are as follows:

(a) Aircraft. The master, owner, or authorized agent of any aircraft entering Guam required to make entry shall submit to the Customs Officer the passenger, crew, and cargo manifest thirty (30) minutes upon departure from the airport or place of origin. The manifests must be transmitted electronically as required by § 73110 to the Customs Office.

(b) Vessels. The master, owner, or authorized agent of any vessel entering Guam required to make entry shall submit to the Customs Office the passenger, crew, and cargo manifest no later than forty-eight (48) hours after the vessel or contrivance departs the port or place of origin, with the exception of vessels arriving from the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands, wherein the manifests must be transmitted immediately upon departure. The manifests must be transmitted electronically as required by § 73110 to the Customs Office.

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(c) Any master, owner, or authorized agent who fails to deliver such copy of the manifest or correction thereof shall be subject to a penalty as prescribed in § 73133 of this Article.

SOURCE: GC § 47109; Amended by P.L. 13-187:232 (Sept. 2, 1976); P.L. 35-105:2 (Oct. 30, 2020).

§ 73112. Penalty.

[Repealed.]

SOURCE: GC § 47110; Amended by P.L. 13-187:233 (Sept. 2, 1976). Repealed by P.L. 35-105:2 (Oct. 30, 2020).

§ 73113. Vessel Exemptions.

(a) Vessels of war:

(1) shall submit to the Customs Office an affidavit of self-inspection report immediately upon arrival; and

(2) shall comply with all other applicable federal laws enforced by the Guam Customs and Quarantine Agency.

(b) Vessels arriving in distress or for the purpose of taking on bunker coal, bunker oil, or necessary sea stores and which shall depart within twenty-four (24) hours after arrival without having landed or taken on board any passengers or any merchandise other than bunker coal, bunker oil, or necessary sea stores; provided, that the master, owner, or agent of such vessel shall report under oath to the Collector the hour and date of arrival and departure and the quantity of bunker coal, bunker oil, or necessary sea stores taken on board.

SOURCE: GC § 47111. Amended by P.L. 35-105:2 (Oct. 30, 2020).

2021 NOTE: This provision was formerly entitled "Vessels Not Required to Make Entry" and was renamed by P.L. 35-105:2 (Oct. 30, 2020).

§ 73114. Merchandise for Other Ports.

Any vessel having on board merchandise shown by the manifest to be destined to a port or place outside of Guam, may, after the report and entry of such vessel under the provisions of this Chapter, proceed to such port of destination with the cargo so destined therefor without unloading the same.

SOURCE: GC § 47112.

§ 73115. Place of Unloading.

It shall be unlawful to make entry of any vessel or to unload the cargo or any part thereof of any vessel elsewhere than at the port of Apra Harbor, the Jose D. Leon Guerrero Commercial Port or the Hagåtña Boat Basin.

SOURCE: GC § 47113.

2026 NOTE: Reference to "Commercial Port" replaced with "Jose D. Leon Guerrero Commercial Port" pursuant to 1 GCA § 835.

2024 NOTE: Reference to Agana replaced with Hagåtña pursuant to 1 GCA § 403(b).

§ 73116. Unloading Prohibition.

(a) Except as otherwise provided (relating to vessels not required to enter), no merchandise, passengers, or baggage shall be unloaded from any vessel until entry of such vessel has been made and a permit for the unloading of the same issued by the Collector; provided, that the master may make a preliminary entry of a vessel by making oath or affirmation to the truth of the statements contained in the vessel's manifest, as provided in § 73110, and submitting the manifest to the Customs Officer, as provided

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in § 73111, but the making of such preliminary entry shall not excuse the master from making formal entry of his vessel at the Customs House, as provided in these regulations. After the entry, preliminary or otherwise, of any vessel, the Collector may issue a permit to the master of the vessel to unload merchandise or baggage but except as provided in Subsection (b) of this Section, merchandise or baggage so unladed shall be retained at the place of unlading until entry therefor is made and a permit for its delivery granted. Any merchandise or baggage so unladed from any vessel for which entry is not made shall be sent to Customs and held as unclaimed at the risk and expense of the consignee in the case of merchandise and of the owner in case of baggage, until entry thereof is made. A master in violation of this Section shall be subject to a penalty as prescribed in § 73133 of this Article.

(b) The Collector of Customs is authorized to issue special permits for delivery, prior to formal entry thereof, of perishable articles and other articles, the immediate delivery of which is necessary.

SOURCE: GC § 47114. Amended by P.L. 35-105:3 (Oct. 30, 2020).

§ 73117. Unloading Penalties.

If any passengers, merchandise or baggage are unloaded from any vessel, aircraft, or contrivance without a permit or authorization and clearance from Customs authorities, the master of such vessel and every other person who knowingly is concerned or who aids therein, or in removing or otherwise securing such merchandise or baggage, shall each be guilty of a violation for each passenger so unladed, and such merchandise or baggage shall be subject to forfeiture.

SOURCE: GC § 47115. Amended by P.L. 13-187:234 (Sept. 2, 1976); P.L. 35-105:3 (Oct. 30, 2020).

§ 73118. Oaths.

The Collector of Customs and all Deputy Collectors of Customs are empowered to administer any oaths required or authorized by these regulations in respect of any matter coming before such officers in the performance of their official duties. No compensation or fee shall be demanded or accepted for administering any oaths under the provisions of this section.

SOURCE: GC § 47116.

§ 73119. Merchandise Taken into Custody.

(a) Whenever entry of any imported merchandise is not made within the time provided by this Chapter, or whenever, in the opinion of the Collector, entry of such merchandise cannot be made for want of proper documents or other cause, he shall take the merchandise into his custody, to be held at the risk and expense of the consignee until entry is made or completed and the proper documents are produced, or a bond given for their production.

(b) At the request of the consignee of any merchandise, or of the owner or master of the vessel in which the same is imported, any merchandise may be taken into possession of the Collector after the expiration of one day after the entry of the vessel and may be unladen and held at the risk and expense of the consignee until entry thereof is made.

SOURCE: GC § 47117.

2024 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 73120. Sale of Merchandise.

(a) Any merchandise of which possession has been taken by the Collector for sixty (60) days from the date of importation without entry thereof having been made and the charges thereon paid, shall be considered unclaimed and abandoned to the government and shall be sold by the Director of Administration at public auction by order of I Maga'håga/Maga'låhi after five (5) days public notice conspicuously posted

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or published. The proceeds of such sale shall be kept for thirty (30) days subject to the demand of the importer, after the deduction of all expenses of storage and sale. Where the proceeds of any sale of goods at auction are insufficient to pay the full charges, the consignee shall be liable for such charges, unless it be shown that the consignment was made without the consignee's consent. Perishable goods not duly entered within a proper time after importation will be sold without regard to the time limits specified above and in time to prevent loss by deterioration.

(b) All seized and confiscated merchandise and goods which cannot be identified as the property of any particular importer, will be sold at public auction, by order of I Maga'håga/Maga'låhi, five (5) days after public notice has been conspicuously posted.

SOURCE: GC § 47118.

2026 NOTE: The reference to the "Director of Administration" in subsection (a) was originally the "Director of Finance"; however, the Editor of the 1970 Government Code modified the reference pursuant to P.L. 9-239:4 (Aug. 13, 1968).

2024 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606. References to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510. Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 73121. Sale of Merchandise; Storage; Fees, Lien, Sale.

The owner of any imported merchandise in the possession of the Collector of Customs, properly entered or otherwise, remaining in government custody for more than five (5) work days after receipt therein and, except when delay in removal may be caused by some failure on the part of the government, shall be liable for a flat rate storage fee of Fifty Dollars ($50.00) upon seizure. This flat rate shall remain in place until such time the Director of Customs promulgates a fee schedule for storage, liens, or sale of said merchandise.

(a) The Collector may direct removal at any time when efficient operation of the Customs Warehouse may necessitate such removal. The above rates of storage charges will then become effective on the fifth (5th) day following the order to remove the merchandise concerned. Any storage charges shall constitute a lien against the property for payment of all storage charges before removal. Storage charges shall be paid every ten (10) days, and if not so done and whenever charges against such merchandise shall have accrued in an amount equal to two-thirds (2/3) of the entered value of the merchandise in question, it shall be subject to seizure and sale by the government in the same manner and subject to the same conditions as prescribed in § 73120 of this Article.

(b) Deposits. All monies received by the Treasurer of Guam in accordance with §§ 73119, 73120, 73121, 73122, 73123 and 73124, as it relates to the sale of merchandise by government auction, shall be deposited in the Customs Fines and Penalties Revolving Fund.

(c) Stores not removed within sixty (60) days after the Collector has directed their removal shall be subject to sale at a public auction in the manner prescribed in § 73120 of this Article.

SOURCE: GC § 47119. Amended by P.L. 35-105:4 (Oct. 30, 2020).

§ 73122. Sale of Merchandise: Destruction or Damage.

Destruction or damage by fire or so-called Acts of God to merchandise or property legally held in the custody and possession of the Collector of Customs will not render the government liable in damages therefor; Provided, however, that claims against the government for losses incurred through personal delinquency on the part of the government employees may be forwarded to I Maga'hågan/Maga'låhen Guåhan via the Collector of Customs for decision. I Maga'håga/Maga'låhi's decision shall be final in each case.

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SOURCE: GC § 47120.

2024 NOTE: Reference to the "Governor of Guam" replaced with I Maga'hågan/Maga'låhen Guåhan. and reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510.

§ 73123. Sale of Merchandise: Destruction by Authorities.

Except as otherwise provided, any merchandise abandoned or forfeited to the government under the preceding or any other provision of this Chapter, which is subject to internal revenue tax and which the Collector shall be satisfied will not sell for a sufficient amount to pay such taxes, shall be forthwith destroyed instead of being sold at auction. Consignees or owners of abandoned or forfeited merchandise set for destruction shall be liable and billed the full cost of destruction.

SOURCE: GC § 47121. Amended by P.L. 35-105:5 (Oct. 30, 2020).

§ 73124. Sale of Merchandise: Proceeds of Sale: Claims.

The proceeds of sale at public auction shall be paid over to the Treasurer of Guam in satisfaction of storage charges and other governmental expenses and the sale of such merchandise or property shall exonerate the master of any vessel from all claims of the former owner of the merchandise or property in question. All private claims for freight, contribution in general, average or other charges against the merchandise or property involved must be filed with I Maga'hågan/Maga'låhen Guåhan via the Collector of Customs for decision as to payment out of the surplus, if any. The decision of I Maga'håga/Maga'låhi shall be final.

SOURCE: GC § 47122.

2024 NOTE: Reference to the "Governor of Guam" replaced with I Maga'hågan/Maga'låhen Guåhan. Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510.

§ 73125. Bonds.

When any bond is required by law or regulation to be executed by any partnership for any purpose connected with the transaction of business at any customs house, the execution of such bond by any member of such partnership shall bind the other partners in like manner and to the same extent as if such other partners had personally joined in the execution, and an action or suit may be instituted on such bond against all partners as if all had executed the same.

SOURCE: GC § 47123.

§ 73126. Examination of Baggage.

The Collector may cause an examination to be made of the baggage of any person arriving in Guam from a point outside the United States of America, including the Commonwealth of the Northern Mariana Islands, in order to ascertain what articles are contained therein and whether prohibited, notwithstanding a declaration and entry therefor has been made.

SOURCE: GC § 47124; Amended by P.L. 16-044:6 (Oct. 13, 1981).

COURT DECISIONS: *Guam v. Sugiyama*, Skopil, J., concurring, finds that the Governor, by Memorandum 33-52, supplemented this provision of the law by authorizing, in addition, searches of one's person as well as of the baggage. Such supplementation is valid. 846 F.2d 570 (9th Cir.(Guam), May 16, 1988) (NO. 87-1075, 87-1080); Rehearing Denied, Opinion Amended by 859 F.2d 1428 (9th Cir.(Guam), Oct. 31, 1988) (NO. 87-1075); *cert. den. Sugiyama v. Territory of Guam*, 490 U.S. 1010, 109 S.Ct. 1652, 104 L.Ed.2d 166 (U.S.Guam, Apr 3, 1989) (No. 88-6705).

§ 73127. Declaration.

Any article not included in the declaration and entry as made, and, before examination of the baggage was begun, not mentioned in writing by such person, if written declaration and entry was required, or orally

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if written declaration and entry was not required, shall be subject to forfeiture and such person shall be liable to a penalty equal to the value of such article.

SOURCE: GC § 47125.

§ 73127.1. Authority to Establish Fines and Fees.

The Director is authorized to establish and amend fines and fees in accordance with the Administrative Adjudication Law, pertaining to this Act. The rules and regulations shall include provisions that:

(a) allow Guam Customs and Quarantine Agency to deny entry or re-export cargo and goods that have been incorrectly declared under the Harmonized Commodity and Coding System;

(b) prescribe tiered fines based on the cumulative number of offenses made by a responsible party;

(c) consider separate administrative actions for consumers who rely on third parties to import goods into Guam and importers who engage in purposeful deception when declaring goods being brought into Guam under the Harmonized Commodity and Coding System;

(d) require fines or penalties collected or paid due to being found guilty of violations outlined in these rules and regulations shall be deposited into the Customs Fines and Penalties Revolving Fund created under § 73153 of this Article;

(e) Address any other pertinent administrative provisions necessary to carry out the Harmonized Commodity and Coding System.

SOURCE: P.L. 37-082:3 (Apr. 2, 2024).

§ 73128. Inspection of Imports.

(a) Imported merchandise, required by regulations to be inspected or examined, shall not be delivered from customs custody, except as otherwise provided in this Chapter, until it has been inspected or examined, and is found to comply with requirements by Customs Officials. The Collector may require such packages or quantities examined as he may deem necessary.

(b) Any container or cargo placed under a Customs "hold" for inspection shall remain in a Customs-designated secured facility until the official inspection is completed. Pursuant to § 73141, sealed container or cargo on hold or remaining under Customs custody may under the authority of the Director of Customs, Chief of Customs, or their designee be transferred or removed from Customs-designated secured facilities to a designated place container freight station, or approved provisional inspection site prior to official release from Customs custody.

SOURCE: GC § 47126. Amended by P.L. 38-136:XII:65 (Aug. 28, 2026).

§ 73129. Contempt.

If any person cited to appear before the Collector of Customs shall neglect or refuse to attend, or shall decline to answer, or shall refuse to answer in writing any interrogation or to subscribe his name to his position, or to produce such papers when so required by the Collector of Customs, the Collector of Customs shall certify the facts to the Superior Court for proceedings in accordance with the terms of 5 GCA § 9238.

SOURCE: GC § 47127 modified to refer to codification of GC § 24138 as 5 GCA § 9238.

2026 NOTE: The prior Compiler modified the reference from "Island Court" to "Superior Court" pursuant to P.L. 12-085:55 (Jan. 16, 1974).

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§ 73130. False Swearing.

Any person who shall intentionally swear falsely on an examination before the Collector of Customs shall be guilty of a misdemeanor; and if he is the owner, importer or consignee, the merchandise shall be forfeited or the value thereof may be recovered from such person.

SOURCE: GC § 47128; Amended by P.L. 13-187:235 (Sept. 2, 1976).

§ 73131. Liability of Customs Officials.

No Collector or other customs officer shall be in any way liable to any owner, importer, consignee or agent or any other person for or in account of any rulings or decisions as to the collection of any charges, on account of said merchandise or any other matter or things as to which said owner, importer, consignee or agent might, under this Chapter be entitled to protest or appeal from the decision of such collector or other officer.

SOURCE: GC § 47129.

§ 73132. Notice of Lien.

Whenever the Collector of Customs shall be notified in writing of the existence of a lien for freight, charges, or contribution in general average upon any imported merchandise entered for warehousing or taken possession of by him, he shall refuse to make delivery thereof until proof shall be produced that the said lien has been satisfied or discharged. The rights of the government of Guam shall not be prejudiced or affected by the filing of such lien, nor shall the government of Guam be liable for losses or damages consequent upon such refusal to permit delivery. If merchandise, regarding which such notice of lien has been filed shall be forfeited or abandoned and sold, the freight, charges or contribution in general average due thereon shall be paid from the proceeds of such case in the same manner as other lawful charges and expenses are paid therefrom.

SOURCE: GC § 47130.

§ 73133. Fines and Penalties.

Penalties for Violations of Arrival, Reporting, Entry, Clearance Requirements, Manifests, and Manifest Delivered to Customs Officer.

(a) Unlawful acts:

(1) failure to comply with §§ 73104, 73106, 73107, 73108, 73110 or 73111 of this Article;

(2) presenting or transmitting, electronically or otherwise, any forged, altered or false document, paper, information, data, or manifest to the Customs Service without revealing the facts; or

(3) failure to make entry or to obtain clearance as required.

(b) Civil Penalty. Any master, person in charge, or aircraft pilot who commits any violation listed under this Section is liable for a civil penalty of Five Thousand Dollars ($5,000) for the first violation and Ten Thousand Dollars ($10,000) for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.

(c) Criminal Penalty. In addition to being liable for a civil penalty under Subsection (b) of this Section, any master, person in charge , or aircraft pilot who intentionally commits any violation listed in Subsection (a) of this Section is, upon conviction, liable for a fine of not more than Two Thousand Dollars ($2,000) or imprisonment for one (1) year, or both; except, that if the conveyance has, or is discovered to have had, on board any merchandise (other than sea stores or the equivalent for conveyances other than vessels) the importation of which into Guam is prohibited, such individual is

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liable for an additional fine of not more than Ten Thousand Dollars ($10,000) or imprisonment for not more than five (5) years, or both.

(d) Additional Civil Penalty. If any merchandise (other than sea stores or the equivalent for conveyances other than a vessel) is imported or brought into Guam in or aboard a conveyance which was not properly reported or entered, the master, person in charge, or aircraft pilot shall be liable for a civil penalty equal to the value of the merchandise and the merchandise may be seized and forfeited unless properly entered by the master, person in charge, or aircraft pilot. The Collector of Customs may grant relief of civil penalty; provided, that such was due to unintentional clerical or administrative omission. The master, person in charge, or aircraft pilot has the burden of proving by clear and convincing evidence of the unintentional omission.

SOURCE: GC § 47131; Amended by P.L. 13-187:236 (Sept. 2, 1976); P.L. 35-105:6 (Oct. 30, 2020).

2021 NOTE: This provision was formerly entitled "Penalties" and was renamed by P.L. 35-105:6 (Oct. 30, 2020).

§ 73134. Penalty: Opium.

If any of such merchandise so found consists of smoking opium or opium prepared for smoking, the master of such vessel or the owner of such vessel shall be liable to a penalty of twenty-five dollars ($25.00) for each ounce thereof so found. Such penalty shall constitute a lien upon such vessel; except that the master or owner of a vessel used by any person as a common carrier in the transaction of business as such common carrier shall not be liable to such penalty and the vessel shall not be held subject to the lien, if it appears that neither the master nor any of the officers (including licensed and unlicensed officers and petty officers) nor the owner of the vessel knew, and could not, by the exercise of the highest degree of care and diligence, have known that such smoking opium or opium prepared for smoking was on board. Clearance of any such vessel may be withheld until such penalty is paid or until a bond, satisfactory to the Collector, is given for the payment thereof.

SOURCE: GC § 47132.

CROSS-REFERENCES: *See* 9 GCA Chapter 67 and Chapter 80 relative to later law on the importation of controlled substances, including opium, and the penalties therefor.

§ 73135. Penalty: Failure to Report Prior to Departure.

If any vessel from a foreign port or place arrives within the limits of Guam and departs or attempts to depart, except from stress of weather or other necessity, without making a report of entry under the provisions of this Chapter, or if any merchandise is unladen therefrom before such report of entry, the master of such vessel shall be guilty of a violation.

SOURCE: GC § 47133; Amended by P.L. 13-187:237 (Sept. 2, 1976).

§ 73136. Penalty: Fraud.

If any consignor, seller, owner, importer, consignee, agent, or other person or persons enters or introduces, or attempts to enter or introduce into the commerce of Guam any imported merchandise by means of any fraudulent or false declaration, affidavit, letter, paper or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance whatsoever, or makes any false statement in any declaration without reasonable cause to believe the truth of such statement, or is guilty of any willful act or omission by means whereof the government of Guam is affected by such act or omission, such merchandise or the value thereof, to be recovered from such person or persons, shall be subject to forfeiture, which forfeiture shall only apply to the whole of the merchandise or the value thereof in the case or package containing the particular article or articles of merchandise to which such fraud or false paper or statement relates. The arrival within the territorial limits of Guam of any merchandise consigned for sale and remaining the property of the shipper or consignor, and the acceptance of a false or

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fraudulent invoice thereof by the consignee or the agent of the consignor, or the existence of any other facts constituting an attempted fraud, shall be deemed, for the purpose of this section, to be an attempt to enter such merchandise notwithstanding no actual entry has been made or offered.

SOURCE: GC § 47134.

§ 73137. Certificates of Origin.

The following fees will be charged by the Customs and Quarantine Agency for the issuance of Certificates of Origin:

For certificates wherein the stated value of the merchandise ranges from:

$ 0.01	to	$ 100.00	a fee of	$ 0.25
$ 100.01	to	$ 500.00	a fee of	$ 0.50
$ 500.01	to	$ 1,000.00	a fee of	$ 1.00
$ 1,000.01	to	$ 5,000.00	a fee of	$ 1.50
$ 5,000.01	to	$ 10,000.00	a fee of	$ 2.25
$ 10,000.01	to	$ 50,000.00	a fee of	$ 3.50
$ 50,000.01	to	$ 100,000.00	a fee of	$ 5.00
	over	$ 100,000.01	a fee of	$ 10.00

Whenever any Certificate of Origin is issued between the hours of 5:00 p.m. and 8:00 a.m. during weekdays and between 12 noon on Saturday and 8:00 a.m. on the following Monday and on legal holidays an additional charge of Three Dollars ($3.00) will be assessed in addition to any rate indicated in the above schedule of fees.

SOURCE: GC § 47135.

2026 NOTE: Past publications of the GCA included the following information in the Source annotation:

> Except as noted above, the sections from the beginning of this Chapter until this section were renumbered to the Govt. Code sections indicated by P.L. 7-048:11 (July 9, 1963). The original sections, enacted with the original Government Code, were § 14200-14235. It is clear to the Compiler that the original customs law were regulations issued under the Naval Government. In fact, an examination of the original enactments of the First Guam Legislature shows that all that Legislature did with respect to the customs rules and regulations is to repeal the tariff schedules then applicable to imports into Guam, and by this means made Guam a duty free port. The bureaucratic structure supporting the tariff schedules, however, was continued.

NOTE: P.L. 22-112 (Apr. 11, 1994) enacted a new 5 GCA § 3127 that established the Customs and Quarantine Agency as an agency separate and apart from the Department of Commerce, effective Oct. 1, 1994. All personnel, equipment and duties was transferred from the Customs and Quarantine Division of the Department of Commerce the newly formed Customs and Quarantine Agency. Pursuant to this transfer, the Compiler has changed references in this section from the Department of Commerce to the new Customs and Quarantine Agency.

§ 73138. Charges for Services of Customs and Quarantine Officers.

[Repealed.]

SOURCE: GC § 47136; Amended by P.L. 14-121:2 (Apr. 18, 1978); P.L. 14-126:4 (May 12, 1978); P.L. 15-125:17 (Apr. 30, 1980); P.L. 16-111:II:3 (Oct. 7, 1982); P.L. 21-042:V:4 (Sept. 15, 1991). Repealed by P.L. 23-045:IV:18(c)(i) (Oct. 18, 1995).

§ 73139. Customs and Quarantine Overtime Fund.

[Repealed.]

SOURCE: GC § 47137, added by P.L. 14-096:1 (Dec. 31, 1977). Repealed and reenacted by P.L. 16-111:II:2 (Oct. 7, 1982); P.L. 19-010:XI:41(b) (Nov. 14, 1987). Repealed by P.L. 23-045:IV:18(c)(ii) (Oct. 18, 1995).

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§ 73140. Exemption for Export Trading Companies.

Goods brought into Guam by an export trading company as defined by § 26101(d) Title 11, Guam Code Annotated which are produced or manufactured in the United States or are produced or manufactured on Guam for the purpose of export from Guam to foreign countries are exempted from the provisions of §§ 73116, 73117, 73127 and 73128 of this Chapter, if the goods are stored in a bonded warehouse approved by the Director of the Customs and Quarantine Agency or cleared by U.S. customs officers as evidenced in writing. This exemption shall not apply to live or unprocessed plants and animals.

SOURCE: GC § 47138, added by P.L. 17-067:7 (Sept. 7, 1984). Amended by P.L. 17-070:II:41 (Sept. 21, 1984).

NOTE: Director of Commerce changed to Director of the Customs and Quarantine Agency pursuant to the transfer of functions and creation of the new agency by P.L. 22-112 (Apr. 11, 1994).

§ 73141. Place of Inspection.

Inspections of baggage, passengers and cargo shall be performed only at the designated ports of Guam, except that inspections of cargo may also be performed at such places as the Director of the Customs and Quarantine Agency shall from time to time designate.

SOURCE: GC § 47139, added by P.L. 20-025:1 (June 10, 1989).

NOTE: Director of Commerce changed to Director of the Customs and Quarantine Agency pursuant to the transfer of functions and creation of the new agency by P.L. 22-112 (Apr. 11, 1994).

§ 73142. Release of Sealed Cargo.

The seal on a container or cargo shall neither be broken nor tampered with, except under the direction of a Customs Inspector or until such container or cargo has otherwise been officially released from Customs' custody.

SOURCE: GC § 47140, added by P.L. 20-025:1 (June 10, 1989).

§ 73143. Release of Sealed Cargo: Penalties.

(a) Should the Customs seal on a container or cargo be broken or tampered with prior to its official release from Customs' custody, except under the direction of a Customs Inspector, then the person or firm that has accepted delivery of the sealed container or cargo shall be liable for the following administrative penalties levied by the Director of Customs:

(1) A fine of not less than One Hundred Thousand Dollars ($100,000) and the seizure of the cargo involved. Seized cargo meeting entry will only be released after payment of the fine or if reasonable payment arrangements are made in good faith. In the event payment arrangement is breached, the Director of Customs may file a request with the Director of the Department of Revenue and Taxation to suspend or revoke the violator's business license and/or garnishment of any tax return. Failure to satisfy the assessed fine shall result in confiscation, forfeiture and disposal of the cargo in accordance with this chapter; and

(2) [No text]

(A) The suspension of the business license(s) of all principals involved in the violation of this section for one (1) year for first violation unless waived in writing by the Director of Customs based on a written analysis of the degree of culpability including, but not limited to, negligence, gross negligence, or fraud; and

(B) The suspension of the business license(s) of all principals involved in the violation of this Section for two (2) years if (2) two violations occur in ten (10) years; or and

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(C) If more than two (2) violations of this Section occur within ten (10) years, the business license(s) of all principals involved shall be permanently revoked.

(b) All fines levied under this section shall be deposited in the Fines and Penalties Revolving Fund. All cargo confiscated under this section shall be disposed of as provided for in this Chapter. The Director of the Customs and Quarantine Agency shall immediately notify the License Board created by 11 GCA § 70112 of a violation by any person or firm whose license is to be suspended.

(c) Any person or firm charged with a violation of this section shall have the burden of proving by clear and convincing evidence that such person or firm was not responsible for the broken or tampered with seal.

SOURCE: GC § 47141, added by P.L. 20-025:1 (June 10, 1989). Amended by P.L 38-136:XII:82 (Aug. 28, 2026).

2026 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered. Subsection designations modified pursuant to authority granted by 1 GCA § 1606.

2024 NOTE: Reference to the "Legislature" replaced with I Liheslatura pursuant to 2 GCA § 1101. Subsection designations added and modified pursuant to authority granted by 1 GCA § 1606.

NOTE: 1. The original law referred to a License Board created by GC § 16026. However, that section dealt with Alien Labor and not with a License Board. The only section creating a License Board is now found in 11 GCA § 70112, which was GC § 16011.

2. Director of Commerce changed to Director of the Customs and Quarantine Agency pursuant to the transfer of functions and creation of the new agency by P.L. 22-112 (Apr. 11, 1994).

§ 73144. Promulgation of Rules and Regulations.

The Director of the Customs and Quarantine Agency is responsible for the promulgation of rules and regulations necessary to carry out the provisions of this Chapter. Such rules and regulations shall be promulgated in accordance with the provisions of the Administrative Adjudication Law.

SOURCE: GC § 47142, added by P.L. 20-025:1 (June 10, 1989).

NOTE: P.L. 20-025:2 stated, as an uncodified section:

> "There is hereby created a Customs Inspection Fund for use in the enforcement of Chapter II, Title XLIV of the Government Code [this Chapter of the Guam Code Annotated]. Such Fund shall be kept separate and apart from the General Fund."

§ 73145. Customs, Agriculture, and Quarantine Inspection Services Charge Established.

(a) Each aircraft landing at the Antonio B. Won Pat International Airport Authority, Guam shall be levied a Customs, Agriculture and Quarantine Inspection services charge reasonably related to the costs incurred by the Customs and Quarantine Agency and the Department of Agriculture in providing, maintaining and operating the service charge facilities, and shall be allocated among air carriers in such a manner reasonably related to the relative demand for such services attributable to each carrier. Each consignment of air and sea cargo, and each passenger landing at a sea port shall also be levied a Customs, Agriculture and Quarantine Inspection services charge, except for those passengers which may be exempted under the rules and regulations promulgated pursuant to § 73151.

(b) The service charges shall be reasonably related to the costs incurred by the Customs and Quarantine Agency and the Department of Agriculture in providing, maintaining and operating the service charge facilities.

(c) Notwithstanding any other provision of law, the establishment, modification or adjustment of any service charge levied pursuant to this Section shall be subject to the provisions of the Administrative Adjudication Law.

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SOURCE: GC § 47143, added by P.L. 23-045:IV:18(a) (Oct. 18, 1995). Amended by P.L. 23-096:2 (May 8, 1996); P.L. 24-014:15 (Mar. 21, 1997) as § 73145; P.L. 26-140:2 (Sept. 17, 2002).

2026 NOTE: Reference to "Antonio B. Won Pat International Airport, Guam" modified pursuant to 12 GCA § 1102(a).

2024 NOTE: Subsection designations added and modified pursuant to authority granted by 1 GCA § 1606.

NOTE: P.L. 23-128:IV:14 (Dec. 12, 1996) repeals the Customs Inspection Fund (not § 73145) and provides for "... any and all remaining balances are reverted to the General Fund. All revenue previously earmarked into this Fund shall continue to be collected and credited to the General Fund."

COMMENT: The Legislature, being unaware of the previous codification of this section, and the previous amendment under this codified number, stated the intent of this latest 26th GL amendment as:

> **Section 1. Legislative Findings and Intent.** I Liheslaturan Guåhan finds that the law authorizing the "Customs, Agriculture and Quarantine Inspection Services Charge Established" needs to be utilized for more facilities involved in agricultural inspections of agricultural products arriving at the Airport. While the Section authorizing this charge was repealed in Public Law Number 23-128:14, it was reinstated in Public Law Number 24-014:15, although using different section numbers. It is desirable to reenact this code section with reference to the right section numbers.
>
> I Liheslaturan Guåhan further finds that daily operations of certain programs within the Department of Agriculture, specifically the Plant, Protection and Quarantine and the Plant Nursery Programs, have been seriously crippled due to their inability to directly access funds which the Programs themselves generate through sales and services they provide on a daily basis. The revenue generated by the Plant, Protection and Quarantine Program from import permit, export certificate, inspection and commodity treatment services fees, and the estimated Twenty-five Thousand Dollars ($25,000.00) annual revenue generated by the Plant Nursery from the sale of vegetables, fruits and other tree seedlings, and grafting, air layering and seed propagation fees are all currently being deposited into the General Fund.
>
> Budget constraints, coupled with a reprioritization of Department needs, have resulted in the poor delivery of services to the communities served by the Divisions. Thus, there is a need to create revolving funds for the respective programs to allow them direct access to funds, however meager, they generate. This legislation will ensure that these agricultural programs operate efficiently and, more importantly, deliver the kind and level of service which the public rightfully expects and deserves.

§ 73146. Initial Service Charges.

Until the first Rules and Regulations required by § 73151 have been promulgated, the Antonio B. Won Pat International Airport Authority, Guam is authorized to collect on an interim basis service charges from air carriers reasonably calculated to recover the costs incurred by the Customs and Quarantine Agency and the Department of Agriculture in providing, maintaining, and operating the service charge facilities. The Customs and Quarantine Agency, or its agents, is also authorized to collect on an interim basis an initial Customs, Agriculture, and Quarantine Inspection Services Charge to be levied as follows:

(a) Upon sea passengers landing at the Jose D. Leon Guerrero Commercial Port a Passenger charge of $10.00 for each passenger, and a document charge of $5.00 upon each consignee or other applicable party for each consignment of cargo landing in Guam, and $25.00 upon each consignee or other applicable party for consolidated consignments of cargo landing in Guam.

SOURCE: Added by P.L. 23-045:IV:18 (Oct. 18, 1995). Repealed and reenacted by P.L. 23-096:3 (May 8, 1996).

2026 NOTE: Reference to "Guam Airport Authority" replaced with "Antonio B. Won Pat International Airport Authority, Guam" pursuant to 12 GCA § 1102(a). Reference to "Port Authority of Guam" replaced with "Jose D. Leon Guerrero Commercial Port" pursuant to 1 GCA § 835.

§ 73147. Authorization for Customs and Quarantine Agency and the Antonio B. Won Pat International Airport Authority, Guam to Collect Customs, Agriculture, and Quarantine Inspection Services Charges.

The Antonio B. Won Pat International Airport Authority, Guam is authorized to assess and collect, from air carriers, the Customs, Agriculture, and Quarantine Inspection Services Charge for customs and

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agricultural inspection services rendered at GIAT. The Customs and Quarantine Agency is authorized to assess and collect the Customs, Agriculture, and Quarantine Inspection Services Charge for Customs, Agriculture, and Quarantine Inspection services rendered at the Jose D. Leon Guerrero Commercial Port.

SOURCE: Added by P.L. 23-045:IV:18 (Oct. 18, 1995). Amended by P.L. 23-096:4 (May 8, 1996).

2026 NOTE: Reference to "Guam Airport Authority" replaced with "Antonio B. Won Pat International Airport Authority, Guam" pursuant to 12 GCA § 1102(a). Reference to "Port Authority of Guam" replaced with "Jose D. Leon Guerrero Commercial Port" pursuant to 1 GCA § 835.

§ 73148. Antonio B. Won Pat International Airport Authority, Guam Reimbursement Agreement.

It is hereby established that the Antonio B. Won Pat International Airport Authority, Guam agrees to reimburse the Customs, Quarantine Agency, the Department of Agriculture, and/or their agents for the costs incurred in performing the various duties and obligations of the Customs, and Quarantine Agency, the Department of Agriculture and/or their agents at the Antonio B. Won Pat Guam International Air Terminal (GIAT). The Customs, Agriculture, and Quarantine Inspection Services Charge is intended to reimburse the Customs, and Quarantine Agency, the Department of Agriculture, and/or their agents for the costs associated with these duties and obligations.

SOURCE: Added by P.L. 23-045:IV:18 (Oct. 18, 1995).

2026 NOTE: Reference to "Guam Airport Authority" replaced with "Antonio B. Won Pat International Airport Authority, Guam" pursuant to 12 GCA § 1102(a). Reference to "Guam International Airport Terminal" replaced with "Antonio B. Won Pat Guam International Air Terminal" pursuant to 1 GCA § 828(a).

§ 73149. Deposit of Customs, Agriculture and Quarantine Inspection Services Charge in Customs, Agriculture and Quarantine Inspection Services Fund.

Notwithstanding any other provisions of law, all funds received in accordance with this Chapter shall be remitted, within five (5) days of receipt, to the Treasurer of Guam for credit to the Customs, Agriculture and Quarantine Inspection Services Fund, as provided for in § 73152 of this Chapter; provided, however, that, upon authorization and certification by the Director of the Customs and Quarantine Agency, the Antonio B. Won Pat International Airport Authority, Guam may deduct from the remittance any actual expenses or charges attributable to the Customs and Quarantine Agency or to the Department of Agriculture incurred in administering or carrying out the purposes of this Act, and any other charges incurred by the Customs and Quarantine Agency or the Department of Agriculture Plant Protection and Quarantine Section at the Antonio B. Won Pat International Airport Authority, Guam.

Expenses and encumbrances, except those outlined above, of the Customs and Quarantine Agency and the Department of Agriculture, or their agents, incurred in performing their duties and obligations as prescribed in this Chapter shall be paid from the Customs, Agriculture and Quarantine Inspection Services Fund upon appropriation by I Liheslaturan Guåhan. Any funds appropriated to the Customs and Quarantine Agency or to the Department of Agriculture shall be administered by their respective Director, who shall also be the certifying officer for their respective agency.

SOURCE: Added by P.L. 23-045:IV:18 (Oct. 18, 1995). Repealed and reenacted by P.L. 26-140:3 (Sept. 17, 2002).

2026 NOTE: Reference to "Antonio B. Won Pat International Airport, Guam" modified pursuant to 12 GCA § 1102(a).

§ 73150. Penalties for Non-payment or Late Payment of Customs, Agriculture, and Quarantine Inspection Services Charge.

If an air carrier, vessel operator, passenger, consignee or other applicable party is more than thirty (30) days delinquent in paying any Customs, Agriculture, and Quarantine Inspection Services Charge due under this Chapter, an interest charge of Ten Percent (10%) per annum shall be added to the balance due.

SOURCE: Added by P.L. 23-045:IV:18 (Oct. 18, 1995).

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§ 73151. Rules and Regulations for the Customs, Agriculture, and Quarantine Inspection Services Charge and the Customs Harmonized Commodity and Coding System.

The Director of Customs and Quarantine Agency, subject to the Administrative Adjudication Act, shall promulgate and adopt rules and regulations to implement the provisions of Section 73145 through 75153 of this Chapter:

(a) including provisions establishing the procedure for collection of the service charge, and for periodic review of the costs of providing the services, the level of the charges levied, and the amount of reimbursement payable to the Antonio B. Won Pat International Airport Authority, Guam, the Customs and Quarantine Agency, the Department of Agriculture and/or their agents reflecting the administrative cost of collecting and remitting the charges. The Rules and Regulations shall also provide for such exemptions from the service charge as may be required by applicable law, other regulations, or as may be prescribed by the Director of the Customs and Quarantine Agency. In addition, to the extent the interim charge authorized by § 73146 is determined to have either over collected or under collected the revenue required during the interim period, the final regulations should adjust the service charges accordingly.

(b) to introduce the Customs Harmonized Commodity and Coding Schedule that is aligned to the Harmonized Commodity and Coding System maintained by the World Customs Organization;

(c) to introduce and implement a Customs Automated System and to authorize the use of the Customs Automated System by registered individuals; and

(d) to create provisions and requirements to successfully implement § 73104 and § 73127 of this Article, applicable to merchandise to be imported, imported merchandise, or merchandise exported.

SOURCE: Added by P.L. 23-045:IV:18 (Oct. 18, 1995). Amended by P.L. 23-096:5 (May 8, 1996). Amended by P.L. 37-082:2 (Apr. 2, 2024).

2026 NOTE: Reference to "Guam International Airport Authority" replaced with "Antonio B. Won Pat International Airport Authority, Guam" pursuant to 12 GCA § 1102(a).

§ 73152. Customs and Agriculture Inspections Services Fund.

There is hereby created, separate and apart from other funds of the government of Guam, a fund to be known as the "Customs, Agriculture, and Quarantine Inspection Services Fund (hereinafter, the Fund). The Fund shall not be commingled with the General Fund and shall be kept in a separate bank account. All expenditures of the Fund shall be made exclusively by appropriation of I Liheslaturan Guåhan. Notwithstanding any other provision of law, any funds appropriated to the Department of Agriculture pursuant to this Chapter shall be administered by the Director of Agriculture. The Director of Agriculture shall be the Certifying Officer of such funds. The Fund shall not be used as a pledge of security or as collateral for government loans. The Director of Administration shall make a quarterly report to I Maga'håga/Maga'låhi and I Liheslatura of the condition of, and activity within, the Fund. He shall make a quarterly report to the Chairman of I Liheslatura's committee which oversees the Customs, Agriculture, and Quarantine Inspections Services Fund (the Fund) of the condition of, and activity within, the Fund. The Director of Administration shall further make an annual report which shall be made available to the general public.

SOURCE: Added by P.L. 23-045:IV:18 (Oct. 18, 1995). Amended by P.L. 23-096:6 (May 8, 1996).

2024 NOTE: Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510. Reference to the "Guam Legislature"/"Legislature" replaced with I Liheslatura Guåhan/Liheslatura pursuant to 2 GCA § 1101.

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§ 73153. Customs Fines and Penalties Revolving Fund.

(a) Fund Established. There is hereby established within the Customs and Quarantine Agency a fund to be known as the "Customs Fines and Penalties Revolving Fund" which shall be separate and apart from other funds of the government of Guam, and for which independent records shall be maintained. The Director of Customs is hereby authorized to expend collected funds without appropriation.

(b) Deposits. All monies received in accordance with §§ 73119, 73120, 73121, 73122, 73123 and 73124 as it relates to fines, penalties and storage shall be deposited in the Customs Fines and Penalties Revolving Fund.

(c) Authorized Expense(s). All expenses authorized by the Director of Customs to be used solely for the Customs and Quarantine Agency shall be paid from the Customs Fines and Penalties Revolving Fund.

(d) Report. In the first January after the enactment of this Act, and every six (6) months thereafter, the Director of Customs and Quarantine shall prepare and transmit, via I Maga'hågan/Maga'låhen Guåhan, a detailed report on the status of the Customs Fines and Penalties Revolving Fund, to include an itemization of expenditures charged against the Fund, to the Speaker of I Liheslaturan Guåhan.

SOURCE: Added by P.L. 23-045:IV:18 (Oct. 18, 1995). Amended by P.L. 35-105:7 (Oct. 30, 2020).

2021 NOTE: This provision was formerly entitled "Severability Clause" and was amended and renamed by P.L. 35-105:7 (Oct. 30, 2020).

§ 73154. Penalties and Payments.

(a) Payments Due. All person(s) found in violation and issued a penalty or fine under § 73133, shall immediately make payments to the Treasurer of Guam.

(b) Interest Penalty. Each person found in violation and issued a penalty or fine under § 73133, who fails to make payment for such penalty or fine within thirty (30) days of the date of issued penalty or fine, shall pay an interest penalty of fifteen percent (15%) per annum to the Treasurer of Guam on the amount of the past due or balance thereof. No interest penalty shall be assessed on payments made in full on or before the thirtieth (30th) day from the date payments are due.

(c) Unpaid Interest. Interest penalty applicable under § 73154(b) which remains unpaid shall accrue to the balance due for purposes of computing current interest due.

SOURCE: Added by P.L. 35-105:8 (Oct. 30, 2020).

§ 73155. Severability.

If any provision of Article 1 of this Chapter or the application thereof to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of the Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.

SOURCE: Added by P.L. 35-105:8 (Oct. 30, 2020).

§ 73156. Annual Customs Officer Training Cycle.

(a) The Customs and Quarantine Agency shall conduct a customs officer training cycle for no more than twenty (20) candidates per fiscal year.

(b) Each year, the Director of the Customs and Quarantine Agency shall determine the total cost to conduct a recruitment and training cycle pursuant to the requirements set forth in Subsection (a) of this Section and he/she shall transmit this as part of the agency's proposed budget to I Maga'hågan/Maga'låhen

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Guåhan for inclusion in the Executive Budget request that I Maga'hågan/Maga'låhen Guåhan submits annually to I Liheslaturan Guåhan.

(c) The Director of the Customs and Quarantine Agency shall submit a report to I Maga'hågan/Maga'låhen Guåhan and the Speaker of I Liheslaturan Guåhan no later than June 30 of each year to present an update on the customs officer training cycle conducted during that fiscal year pursuant to the requirements set forth in this Section.

SOURCE: Added as § 73155 by P.L. 36-054:XII:40 (Sept. 11, 2021), renumbered by the Compiler pursuant to 1 GCA § 1606.

2021 NOTE: P.L. 36-054:XII:40 (Sept. 11, 2021) added this section as a new § 73155; however, to avoid confusion with the existing § 73155 entitled "Severability," the new law was renumbered by the Compiler pursuant to the

§ 73157. Implementation of Customs Information Technology System – ASYCUDA.

(a) Definitions. For purposes of this Section:

(1) "Agency" means the Guam Customs and Quarantine Agency.

(2) "ASYCUDA" means the Automated System for Customs Data, a proprietary customs management system developed, administered, and supplied by the United Nations Conference on Trade and Development (UNCTAD).

(3) "Customs automated system" means an electronic platform or suite of modules used for the receipt and processing of customs declarations, manifests, cargo and passenger data, risk management, valuation, classification, revenue assessment and collection, enforcement actions, and related customs functions at Guam's ports of entry.

(4) "UNCTAD" means the United Nations Conference on Trade and Development, a specialized entity of the United Nations responsible for, inter alia, the development and administration of ASYCUDA.

(b) Adoption and Designation as Official System. ASYCUDA is hereby adopted and designated as the official customs automated system of the Agency for all customs operations at Guam's ports of entry, including, but not limited to, air, sea, mail, and express consignment facilities.

(c) Authority to Negotiate and Execute Agreements. The Director of Customs, with the approval of I Maga'hågan/Maga'låhen Guåhan, is authorized to negotiate, execute, implement, and amend agreements, memoranda of understanding, and other intergovernmental instruments with UNCTAD for the planning, acquisition, installation, configuration, hosting, integration, operation, enhancement, training, support, and maintenance of ASYCUDA and its related modules and services.

(d) Exemption from Certain Procurement Requirements. Notwithstanding any other provision of law, agreements, memoranda of understanding, and other instruments entered into pursuant to this Section for the provision of ASYCUDA and its directly associated modules, services, hardware and support shall be exempt from the Invitation for Bid (IFB) and competitive source selection requirements of Chapter 5 of this Title, in recognition that ASYCUDA is a sole-source, proprietary, intergovernmental system available exclusively through UNCTAD.

(1) Prior to entering into any such agreement, the Director of Customs shall prepare a written determination, approved by I Maga'håga/Maga'låhi, certifying that:

(A) ASYCUDA is available only through UNCTAD; and

(B) the exemption granted under this subsection is limited to ASYCUDA and its directly associated modules, services, hardware and support.

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(2) The exemption provided in this subsection shall not be construed to authorize sole-source procurement for any other information technology system, hardware, software, or service not directly related to the implementation and operation of ASYCUDA.

(3) A copy of each agreement or instrument executed pursuant to this subsection, together with the written determination required herein, shall be transmitted to I Liheslaturan Guåhan within thirty (30) days of execution.

(e) Funding. Federal funds, including, but not limited to, Technical Assistance Program (TAP) funds and other grants or cooperative agreements, together with local appropriations and any other lawful funding sources, may be obligated, encumbered, and expended for the planning, acquisition, implementation, integration, hosting, operation, maintenance, enhancement, and training necessary to support ASYCUDA and its associated customs automation functions.

(f) System Integration and Data Governance. The Agency shall configure and operate ASYCUDA in a manner that:

(1) facilitates electronic receipt, processing, and retention of cargo and passenger data, manifests, and declarations;

(2) enables, to the maximum extent practicable, electronic interface and data sharing with the Department of Revenue and Taxation and with any government-wide financial or revenue management systems authorized by law;

(3) supports accurate assessment, collection, accounting, and reporting of customs duties, use taxes, fees, and other revenues under the Agency's jurisdiction; and

(4) preserves the Government of Guam's ownership, control, and timely access to all customs and revenue-related data processed through ASYCUDA, regardless of hosting or service arrangements.

(g) Rules and Regulations. The Director of Customs shall, within one hundred eighty (180) days of the effective date of this Act, promulgate rules and regulations, pursuant to the Administrative Adjudication Law, 5 GCA Chapter 9, to govern the effective use, security, integrity, access controls, confidentiality, data retention, and continuity of operations of ASYCUDA, and to ensure compliance with applicable local, federal, and international customs, trade, and border security requirements.

(h) Information Sharing and Interagency Cooperation. The Director of the Guam Customs and Quarantine Agency may, at his or her discretion, and consistent with applicable local and federal laws and confidentiality requirements, enter into memoranda of understanding, data sharing agreements, or other cooperative instruments for the exchange and use of information generated or maintained through ASYCUDA for customs, revenue, law enforcement, border security, and trade facilitation purposes, including, but not limited to:

(1) Government of Guam Agencies such as the Department of Revenue and Taxation, the Office of Technology, the Bureau of Statistics and Plans, the Jose D. Leon Guerrero Commercial Port, the Antonio B. Won Pat International Airport Authority, Guam, and such other departments, agencies, or instrumentalities of the Government of Guam as the Director deems appropriate to:

(A) improve revenue assessment, collection, and reconciliation;

(B) support coordinated risk management and enforcement activities; and

(C) facilitate legitimate trade, logistics, and economic and statistical analysis.

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(2) Federal Authorities such as the United States Coast Guard, the United States Department of Homeland Security, United States Customs and Border Protection, the United States Postal Inspection Service, the Drug Enforcement Agency, the Federal Bureau of Investigation, the Internal Revenue Service Criminal Investigation Agency, and such other federal law enforcement, border security, regulatory, or postal entities as the Director deems appropriate to:

(A) enhance joint enforcement efforts and information sharing;

(B) support compliance with federal requirements applicable at Guam's ports of entry; and

(C) facilitate the secure and efficient movement of legitimate cargo and passengers.

(3) Regional and International Customs Entities such as Customs and Border Protection authorities within the Pacific region, including, but not limited to, customs administrations participating in the Oceania Customs Organization or similar regional bodies, for the purpose of:

(A) facilitating trade and transit of goods within the region;

(B) coordinating risk management and enforcement initiatives; and

(C) promoting cooperation and best practices in customs modernization and automation.

Any such instrument entered into under this Subsection shall incorporate appropriate safeguards to protect confidential taxpayer, commercial, and law enforcement-sensitive information, and shall ensure that shared data is used solely for lawful governmental purposes related to customs, revenue, trade, or border security.

SOURCE: Added by P.L. 38-109:2 (Apr. 8, 2026).

2026 NOTE: Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510. Reference to "Port Authority of Guam" replaced with "Jose D. Leon Guerrero Commercial Port" pursuant to 1 GCA § 835. Reference to "Guam International Airport Authority" replaced with "Antonio B. Won Pat International Airport Authority, Guam" pursuant to 12 GCA § 1102(a).

ARTICLE 2
CARRIER OFF-DUTY SERVICES REVOLVING FUND

SOURCE: Entire Article added by P.L. 25-138:1 (May 22, 2000).

§ 73201. Title.
§ 73202. Definitions, Generally.
§ 73203. Charges for Carrier Off-Duty Services of Customs and Quarantine Officers and Inspectors of Plant Protection and Quarantine Section of the Department of Agriculture.
§ 73204. Payment and Penalties.
§ 73205. Carrier Off-Duty Services Revolving Fund.

§ 73201. Title.

This Article may be cited and referred to as "The Carrier Off-Duty Services Revolving Fund Article."

§ 73202. Definitions, Generally.

Whenever used in this Chapter, unless otherwise required by the context:

(a) "Off-Duty officer" means an officer of the Customs and Quarantine Agency, exclusive of the Director of Customs and the Chief of Customs, or an inspector of the Plant Protection and Quarantine Section of the Department of Agriculture, who is not actively fulfilling any scheduled and/or assigned

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task, and who is available to perform service(s) outside of that person's assigned or scheduled work hours.

(b) "Officer" means a Customs and Quarantine Officer duly employed by the Customs and Quarantine Agency, or an inspector of the Plant Protection and Quarantine Section of the Department of Agriculture, government of Guam.

(c) "Person" includes any individual, firm, co-partnership, joint venture, association, corporation, trust or any group or combination action as a unit and the plural, as well as the singular number as may be appropriate.

§ 73203. Charges for Carrier Off-Duty Services of Customs and Quarantine Officers and Inspectors of Plant Protection and Quarantine Section of the Department of Agriculture.

(a) Charges for Services by Customs and Quarantine Officers. All operations of any person, excluding air carriers and passengers arriving at the Antonio B. Won Pat Guam International Air Terminal and passengers arriving on Guam via ocean vessels, that require the services of Customs and Quarantine Agency Officers on any day of the week, upon special request on Sundays, holidays, or between the hours of 5:00 p.m. of any other day and 6:00 a.m. of the following day, shall be charged for services as are rendered by officers as follows:

(1) for the first hour or fraction thereof, a rate of three (3) times the officer's, or officers', hourly wage (3.0 x hourly wage rate) for each officer requested to perform off-duty inspection service; and after the first hour, but only after fifteen (15) minutes has elapsed, a rate one and a half (12) times each officer's hourly wage rate during such hour, or each hour thereafter, but not to exceed a maximum charge of Two Hundred Seventy-five Dollars ($275.00) per officer per day.

(b) Charges for Services by Plant Protection and Quaran-tine Inspectors. All operations of any person, excluding air carriers and passengers arriving at the Antonio B. Won Pat Guam International Air Terminal and passengers arriving on Guam via ocean vessels, that require the services of the inspectors of the Plant Protection and Quarantine Section of the Department of Agriculture on any day of the week upon special request by the Director of Customs and Quarantine on Sundays, holidays, or between the hours of 5:00 p.m. of any other day and 6:00 a.m. of the following day, shall be charged for services as are rendered by an inspector(s) of the Plant Protection and Quarantine Section of the Department of Agriculture as follows:

(1) for the first hour or fraction thereof, a rate of three (3) times the officer's, or officers', hourly wage (3.0 x hourly wage rate) for each officer requested to perform off-duty inspection service; and

(2) after the first hour, but only after fifteen (15) minutes has elapsed, a rate one and a half (12) times each officer's hourly wage rate during such hour, or each hour thereafter, but not to exceed a maximum charge of Two Hundred Seventy-five Dollars ($275.00) per officer per day.

(c) Non-Performance of Services. If services have been requested and the officer(s) has reported to work, and the services are not performed by reason of circumstances beyond the control of the officer(s) concerned, the requesting party shall be charged in accordance with §§ 73203(a) and (b) on the same basis as though the services had actually been performed during the time the officer was ordered to report for duty and did so report, and the time the officer was notified that the officer's services would not be required.

(d) Administrative Surcharge. In addition to charges authorized under §§ 73203(a), (b) and (c), a Two Dollar ($2.00) administrative surcharge per employee shall be assessed to and payable by the persons receiving such services for the cost of processing, collecting and administering this program.

2024 NOTE: Subsection designations added and modified pursuant to authority granted by 1 GCA § 1606.

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§ 73204. Payment and Penalties.

(a) Payments Due. All person(s) requesting the services of Customs and Quarantine Agency Officers, or the inspectors of the Plant Protection and Quarantine Section of the Department of Agriculture, of the government of Guam under § 73203, and to whom such services were provided, shall make payments to the "Treasurer of Guam" immediately upon the delivery of services. Upon the written request of person(s) receiving the services of Customs and Quarantine Agency Officers, or the inspectors of the Plant Protection and Quarantine Section of the Department of Agriculture, the Director of Customs and Quarantine may authorize person(s) an extension of payment of up to thirty (30) days from the date of service(s), subject to the penalties and conditions stipulated in §§ 73204(b) and (c).

(b) Interest Penalty. Each person who receives customs or plant protection and quarantine inspection services under § 73203, and fails to make payment for each such completed service(s) within thirty (30) days of the date of service, or thirty (30) days from the date of extension, shall pay an interest penalty of fifteen percent (15%) per annum to the Treasurer of Guam, on the amount of past due or balance thereof. No interest penalty shall be assessed on payments made in full on or before the thirtieth (30th) day from the date payments are due.

(c) Unpaid Interest. Interest penalty applicable under § 73204(b) which remain unpaid shall accrue to the balance due for purposes of computing current interest due.

§ 73205. Carrier Off-Duty Services Revolving Fund.

(a) Fund Established. There is hereby established within the Customs and Quarantine Agency, a fund to be known as the "Carrier Off-Duty Services Revolving Fund" which shall be separate and apart from other funds in the government of Guam, and for which independent records shall be maintained.

(b) Deposits. All money received in accordance with this Act shall be deposited into the Carrier Off-Duty Services Revolving Fund.

(c) Authorized Expense(s). All authorized expenses for providing customs, agriculture and quarantine service(s) pursuant to this Act, shall be paid by the Treasurer of Guam from the Carrier Off-Duty Services Revolving Fund upon the submittal of vouchers certified by the Director of Customs and Quarantine or the Director of Agriculture. Each officer shall be responsible for all employer retirement contribution which may be applicable on their behalf.

(d) Report. In the first January after the enactment of this Act, and every six (6) months thereafter, the Director of Customs and Quarantine shall prepare and transmit via I Maga'hågan/Maga'låhen Guåhan to the Speaker of I Liheslaturan Guåhan a detailed report on the status of the Carrier Off-Duty Services Revolving Fund to include an itemization of expenditures charged against the Fund.

ARTICLE 3
PLANT QUARANTINE SERVICES

SOURCE: Added by P.L. 27-029:V:22-23 (Sept. 19, 2003) as 5 GCA §§ 73206-73207, renumbered by the Compiler pursuant to the authority of 1 GCA § 1606.

§ 73301. Transfer of Plant Protection and Quarantine Section Personnel and Functions of the Department of Agriculture to the Customs and Quarantine Agency.
§ 73302. Creation of the Guam Plant Inspection and Permit Fund.

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§ 73301. Transfer of Plant Protection and Quarantine Section Personnel and Functions of the Department of Agriculture to the Customs and Quarantine Agency.

(a) All classified employees filling positions within the Plant Protection and Quarantine Section of the Department of Agriculture (DOA) prior to September 30, 2003 shall be transferred to the Customs and Quarantine Agency (CQA) with the exception of the positions of the entomologist and cashier who will remain with DOA for the administration and management of import and export permits, phytosanitary permits, and a Plant Inspection Station. Classified employees transferred to CQA shall be transferred with all duties, responsibilities and compensation intact, and with no lapses in service to the government of Guam.

The Director of CQA shall have the power to reorganize and realign positions in conformance with the rules and regulations of the Director of Administration and all other applicable laws of Guam. Employees transferred from the Plant Protection and Quarantine Section of DOA shall be entitled to the same retirement, workmen's compensation and hospital insurance benefits to which they are currently entitled.

(b) Transfer of Duties. Except as otherwise specifically provided, CQA shall hereby assume all the powers, duties and responsibilities of the Plant Protection and Quarantine Section of DOA as set out in this Act, and any other section of law with the exception of the administration of local and Federally regulated import and export plant permits, phytosanitary permits and the control management and administration of a USDA sanctioned Plant Inspection Station. Any regulation or other action adopted, prescribed, taken or performed by Plant Protection and Quarantine Officers of the Plant Protection and Quarantine Section of DOA in the administration of a program, the performance of a power, duty or responsibility, or the exercise of any function transferred by this Act shall remain in effect and shall be deemed to be a regulation or action of CQA or of any of its officers to whom the program, power, duty, responsibility or function is transferred.

(c) Transfer of Records and Equipment. Upon the transfer of functions as provided in this Section, CQA shall have possession and control of all books, records, papers, maps, plans, documents, offices, equipment, supplies, money, funds, appropriations, licenses, permits, agreements, contracts, and other property, real or personal, connected with the transfer of, administration of, or held for the benefit or use of, Plant Protection and Quarantine Officers transferred to CQA.

(d) Employee Preference to Continue Service with DOA. Nothing herein shall prevent any Plant Protection and Quarantine Officer from filling any vacant position within DOA pursuant to the Merit System.

(e) DOA and CQA Nexus on Plant Protection Inspections.

(1) DOA shall provide technical and scientific support to CQA upon assuming specific duties and responsibilities of the Plant Protection and Quarantine Section of DOA as set out in this Section, and any other section of law or regulation pertinent thereto.

(2) CQA shall provide personnel support for the operations of the Plant Inspection Station of the Department of Agriculture.

(3) A Memorandum of Understanding (MOU) shall be executed between DOA and CQA in the operations of the Plant Quarantine Station including the duties and responsibilities of DOA in providing specific technical and scientific support to CQA as set out in this Section.

(f) Transition Team Created.

(1) Transition Team. There is hereby created a Transition Team to help ensure a smooth transition of functions from the Plant Protection and Quarantine Section of DOA to the Customs and Quarantine Agency (CQA). The Transition Team shall include the following:

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(A) the Director, or a designee of DOA; and

(B) the Director, or a designee of CQA.

(2) Authority. The Transition Team shall have sixty (60) days from the enactment of this Act to do the following:

(A) ensure the smooth transition of the operations of the Plant Protection and Quarantine Section of DOA to CQA; and

(B) examine and recommend any other facts or data as may be necessary to ensure the smooth transition from the transfer of employees and duties of the Plant Protection and Quarantine Section of DOA to CQA.

(g) Vacant Plant Protection and Quarantine positions shall be phased out and not be filled. Future recruitment for Plant Protection and Quarantine Officer duties shall be for Customs Officer positions as approved by the Director of Administration.

This Section shall be effective October 1, 2003.

SOURCE: Added by P.L. 27-029:V:22 (Sept. 19, 2003) as 5 GCA § 73206.

2026 NOTE: Past publications of the GCA included the following information in the Source annotation:

> This section was already occupied by another as part of a different topic, so the Compiler created a new Article for these transfer provisions. Effective January 1, 2006, reference to the "Civil Service Commission," amended to "Director of Administration" pursuant to P.L. 28-068:IV:45 (Sept. 30, 2005).

2024 NOTE: Subsection designations modified pursuant to authority granted by 1 GCA § 1606.

§ 73302. Creation of the Guam Plant Inspection and Permit Fund.

There is hereby created the Guam Plant Inspection and Permit Fund. This Fund shall be used exclusively for the administration, operation, maintenance and improvement of the Plant Inspection Station of the Department of Agriculture and is subject to I Liheslaturan Guåhan appropriation. The Guam Plant Inspection and Permit Fund shall be maintained separate and apart from any other funds of the government of Guam and shall not be subject to any transfer authority of I Maga'hågan/Maga'låhen Guåhan. The Director of the Department of Agriculture is hereby required to establish a fee schedule for services provided by the Plant Inspection Station and update all permit fees associated with the issuance of phytosanitary permits inclusive to permit fees and other ancillary operational fees on the importation and exportation of any regulated flora, fauna, or by product thereof under the jurisdiction of the Department of Agriculture. The fee schedule shall be adopted following the Administrative Adjudication Act. All funds generated from the fee schedule shall be deposited into the Guam Plant Inspection and Permit Fund.

SOURCE: Added by P.L. 27-029:V:23 (Sept. 19, 2003) as § 73207, renumbered by Compiler pursuant to authority of 1 GCA § 1606.

ARTICLE 4
CUSTOMS FORFEITURE FUND AND ASSET FORFEITURE

SOURCE: Entire Article added by P.L. 36-036:2 (June 11, 2021).

§ 73401. Creation of Fund.
§ 73402. Items Subject to Forfeiture.
§ 73403. Procedure.
§ 73404. Custody.
§ 73405. Assets Forfeited.

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§ 73406. Deposit.
§ 73407. Expenditure.
§ 73408. Report.

§ 73401. Creation of Fund.

There is hereby created, separate and apart from other funds of the government of Guam, a fund to be known as the Customs Forfeiture Fund (Fund), which shall be divided into two (2) accounts: one (1) account to be known as the Customs Local Forfeiture Account (CLFA); and another account to be known as the Customs Federal Shared Assets Forfeiture Account (CFSAFA). The Fund shall not be commingled with the General Fund and shall be kept in a separate bank account, administered by the Director of Guam Customs and Quarantine Agency (Director). The Fund shall be expended as authorized by the Director.

SOURCE: Added by P.L. 36-036:2 (June 11, 2021).

§ 73402. Items Subject to Forfeiture.

Notwithstanding any other provision of law, or rule or regulation, the following shall be subject to forfeiture and no property right shall exist in them:

(a) all controlled substances which have been or are intended to be manufactured, distributed, dispensed, acquired or held in violation of the provisions of Articles 4 or 6 of Chapter 67, Title 9, Guam Code Annotated;

(b) all raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting in violation of the provisions of Articles 4 or 6 of Chapter 67, Title 9 GCA; Article 6 of Chapter 6, Title 11 GCA; or Chapter 47 of Title 9 GCA;

(c) all property which is used, or intended for use, as a container for property described in Subsections (a) and (b) of this Section;

(d) all conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in Subsections (a) or (b) of this Section, except that:

(1) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this Article, unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or colluded to a violation of Articles 4 or 6 of Chapter 67, Title 9 GCA; Article 6 of Chapter 6, Title 11 GCA; or Chapter 47 of Title 9 GCA;

(2) no conveyance shall be forfeited under the provisions of this Section by reason of any act or omission established by the owner thereof to have been committed or omitted without his or her knowledge or consent; and

(3) a forfeiture of a conveyance encumbered by a bona fide security interest of the secured party if he or she neither had knowledge of nor consented to the act or omission;

(e) all books, records, and research, including formulas, microfilm, tapes, and data, which are used, or intended for use, in violation of Articles 4 or 6 of Chapter 67, Title 9 GCA; Article 6 of Chapter 6, Title 11 GCA; or Chapter 47 of Title 9 GCA;

(f) all moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of Articles 4 or 6 of Chapter 67, Title 9 GCA, and all proceeds traceable to such an exchange, and all moneys, negotiable

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instruments, securities used, or intended to be used, to facilitate any violation of Articles 4 or 6 of Chapter 67, Title 9 GCA; Article 6 of Chapter 6, Title 11 GCA; or Chapter 47 of Title 9 GCA, shall be forfeited to the Guam Customs and Quarantine Agency making the seizure;

(g) all firearms which are visible, carried during, or used in furtherance of a violation of Articles 4 or 6 of Chapter 67, Title 9 GCA; Article 6 of Chapter 6, Title 11 GCA; or Chapter 47 of Title 9 GCA;

(h) all land and real property used by the owner with his or her knowledge or consent which contributed to or facilitated violation of the provisions of Articles 4 or 6 of Chapter 67, Title 9 GCA; Article 6 of Chapter 6, Title 11 GCA; or Chapter 47 of Title 9 GCA; and

(i) all land or real property that was purchased, traded, or acquired by persons using profits or proceeds generated in violation of the provisions of Articles 4 or 6 of Chapter 67, Title 9 GCA; Article 6 of Chapter 6, Title 11 GCA, or Chapter 47 of Title 9 GCA.

SOURCE: Added by P.L. 36-036:2 (June 11, 2021).

§ 73403. Procedure.

Notwithstanding any other provision of law, or rule or regulation, any property subject to forfeiture under this Chapter may be seized by Guam Customs and Quarantine Agency upon process issued by the Superior Court of Guam, except that seizure without such process may be made when:

(a) the seizure is incident to an arrest or a search during a border crossing or port of entry;

(b) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(c) the property subject to seizure has been the subject of a prior judgment in a criminal injunction or forfeiture proceeding based upon this Article;

(d) Guam Customs and Quarantine Agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(e) Guam Customs and Quarantine Agency has probable cause to believe that the property has been used or intended to be used in violation of Articles 4 or 6 of Chapter 67, Title 9 GCA; Article 6 of Chapter 6, Title 11 GCA, or Chapter 47 of Title 9 GCA.

(f) In the event of seizure pursuant to this Section, proceedings under § 73404 of this Article shall be promptly instituted.

SOURCE: Added by P.L. 36-036:2 (June 11, 2021).

§ 73404. Custody.

Property taken or detained under this Section shall not be repleviable, but shall be deemed to be in the custody of the Guam Customs and Quarantine Agency only to the orders and decrees of the court. Whenever property is seized under the provisions of this Article, Guam Customs and Quarantine Agency may:

(a) place the property under seal; or

(b) remove the property to a place designated by the Director or his/her designee.

SOURCE: Added by P.L. 36-036:2 (June 11, 2021).

§ 73405. Assets Forfeited.

Whenever property is forfeited under this Article, the Guam Customs and Quarantine Agency may:

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(a) retain the property for official use;

(b) subject to any other applicable laws, sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public;

(c) require the property to be taken into custody and removed for disposition in accordance with law; or

(d) forward it to any local or federal agency for disposition (including delivery for medical or scientific use to any local agency under regulations of the Attorney General of Guam, or any federal agency under regulations of the Attorney General of the United States).

SOURCE: Added by P.L. 36-036:2 (June 11, 2021).

§ 73406. Deposit.

(a) There shall be deposited into the CLFA all proceeds from the sale of property forfeited under any local law enforced or administered by the Guam Customs and Quarantine Agency, including, but not limited to, 5 GCA Chapter 73; 9 GCA §§ 67.401.9, 67.601, 67.602, and 67.604; 9 GCA §§ 47.20, 47.30, and 47.40; and 11 GCA §§ 6602 and 6603.

(b) All proceeds from the sale of forfeited property received by the Guam Customs and Quarantine Agency from any cooperative agreement or memorandum of understanding between the Guam Customs and Quarantine Agency and any other government of Guam entity shall also be deposited into the CLFA.

(c) All proceeds from the sale of forfeited property received by the Guam Customs and Quarantine Agency from any cooperative agreement or memorandum of understanding between the Guam Customs and Quarantine Agency and the federal government shall be deposited into the CFSAFA.

SOURCE: Added by P.L. 36-036:2 (June 11, 2021).

§ 73407. Expenditure.

(a) The CLFA shall be exclusively used for the following purposes:

(1) the payment, upon the approval of the Director, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited pursuant to law enforced or administered by the Guam Customs and Quarantine Agency, or of any other necessary expense incident to the seizure, detention, forfeiture, or disposal of such property;

(2) for the training and professional development of personnel;

(3) to develop and maintain facilities utilized by the Guam Customs and Quarantine Agency;

(4) for the purchase of equipment for the Guam Customs and Quarantine Agency; or as deemed necessary by the Director.

(b) The CFSAFA shall be expended as authorized by the federal government guidelines that govern the acquisition, use, and reporting of forfeited assets.

SOURCE: Added by P.L. 36-036:2 (June 11, 2021).

§ 73408. Report.

The Director shall transmit to I Maga'hågan/Maga'låhen Guåhan and the Speaker of I Liheslaturan Guåhan, no later than thirty (30) days after the end of each fiscal year, a detailed report of each account of the Fund as follows:

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(a) the estimated total value of property forfeited under any law enforced or administered by the Guam Customs and Quarantine Agency with respect to which funds were not deposited into the Fund;

(b) each account's beginning balance on October 1st of each year;

(c) sources of receipts (seized cash, conveyances, and others);

(d) the net amount realized from the year's operations, the amount of seized cash being held as evidence, and the amount of money legally allowed to be carried over to the following year;

(e) a year-end report of each account balance;

(f) a report for such fiscal year, containing financial statements, reviewed by the Public Auditor, and an audited report every three (3) years, including profit and loss information with respect to forfeited property (by category), and financial information on forfeited property transactions; and

(g) any other pertinent information.

SOURCE: Added by P.L. 36-036:2 (June 11, 2021).

2024 NOTE: Reference to the "Governor of Guam" replaced with I Maga'hågan/Maga'låhen Guåhan. Reference to the "Guam Legislature" replaced with I Liheslaturan Guåhan pursuant to 2 GCA § 1101.

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