



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

JUL 10 2000

The Honorable Joanne M. S. Brown
Legislative Secretary
I Mina'Bente Singko na Liheslaturan Guåhan
Twenty-Fifth Guam Legislature
Suite 200
130 Aspinal Street
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OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u><i>Rain</i></u>
Time	<u>10:31AM</u>
Date	<u>7-10-00</u>


Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 392 (LS), "AN ACT TO AMEND THE GUAM ENVIRONMENTAL PROTECTION AGENCY GUAM SOIL EROSION AND SEDIMENTATION CONTROL REGULATIONS", which was signed into law Public Law No. 25-152.

The original of the attached rules and regulations concerning soil erosion and sedimentation controls were developed by the Guam Environmental Protection Agency and transmitted to i Liheslatura on January 25, 2000. The originally transmitted rules and regulations already went into effect on July 5, 2000, which is 90 days plus 3 legislative days after transmittal to i Liheslatura. Usually, a day that a session is held that contains only a speech is not counted as a legislative day, however, bills were passed on July 5 and would convert the session to a "session day" counted for purposes of the time period required.

The attached version of the rules and regulations has been reviewed by the Guam Environmental Protection Agency, however, and the attached version has been approved. For this reason, this legislation has been signed.

Very truly yours,


Carl T. C. Gutierrez
I Maga'Lahen Guåhan
Governor of Guam

Attachment: copy attached for signed bill or overridden bill
original attached for vetoed bill

cc: The Honorable Antonio R. Unpingco
Speaker

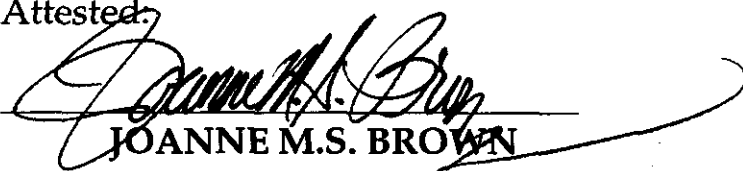
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MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
2000 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 392 (LS) "AN ACT TO AMEND THE GUAM ENVIRONMENTAL PROTECTION AGENCY GUAM SOIL EROSION AND SEDIMENTATION CONTROL REGULATIONS," was on the 23rd day of June 2000, duly and regularly passed.


ANTONIO R. UNPINGCO
Speaker

Attested:

JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guahan* this 29th day of June, 2000,
at 4:40 o'clock P.M.


Assistant Staff Officer
Maga'lahaen's Office

APPROVED:


CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: 7-10-00

Public Law No. 25-152

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
2000 (SECOND) Regular Session

Bill No. 392 (LS)

As substituted by the Committee
on Natural Resources.

Introduced by:

J. M.S. Brown
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C. A. Leon Guerrero
F. B. Aguon, Jr.
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**AN ACT TO AMEND THE GUAM
ENVIRONMENTAL PROTECTION AGENCY GUAM
SOIL EROSION AND SEDIMENTATION CONTROL
REGULATIONS.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** In accordance with the
3 Administrative Adjudication Law, §9303 *et seq.* of Title 5 of the Guam Code
4 Annotated, as amended by Public Law Number 24-27, on December 10, 1997, the
5 Guam Environmental Protection Agency ("GEPA") transmitted on January 25,

1 2000 to *I Liheslaturan Guåhan*, the “Guam Environmental Protection Agency
2 Guam Soil Erosion and Sedimentation Control Regulations,” which were adopted
3 on April 24, 2000. *I Liheslaturan Guåhan* wishes to amend the rules and
4 regulations as proposed by GEPA to further strengthen its implementation.

5 **Section 2. Approval of GEPA Regulations.** *I Liheslaturan Guåhan* hereby
6 approves the GEPA rules and regulations, **Exhibit A**, entitled, “Guam
7 Environmental Protection Agency Guam Soil Erosion and Sedimentation Control
8 Regulations.”

9 **Section 3. Severability.** *If* any provision of this Law or its application
10 to any person or circumstance is found to be invalid or contrary to law, such
11 invalidity shall *not* affect other provisions or applications of this Law which can
12 be given effect without the invalid provisions or application, and to this end the
13 provisions of this Law are severable.

14 **Section 4. Effective Date.** Effective date of this Act shall be on October 1,
15 2000.

EXHIBIT A

GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS

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1 **GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS**

2 22 GAR - GEPA

3 Division II - Water Control

4 **CHAPTER 10**

5 **GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS**

6 **Section 10100. Authority.**

7 10 GCA Chapter 47 - "Water Pollution Control Act."

8 **Section 10101. General Provisions: Purpose, Scope, Applicability and Exemptions.**

9 A. Purpose.

10 Whereas soil erosion and sedimentation resulting from the construction of sub-divisions,
11 industrial and commercial developments, highways and other activities requiring excavation
12 and filling can affect the purity of wetlands, streams and marine waters on Guam and thereby
13 may cause unreasonable damage to aquatic and marine life in general; and whereas, the
14 pollution of wetlands, streams and marine waters must be controlled to ensure a reasonably
15 clean environment for the people of Guam; and whereas, the Guam Environmental Protection
16 Agency has been vested with the responsibility to maintain at all times a high quality of
17 environment to guarantee an enjoyable life for all people at present and in the future; and,
18 whereas, the environmental degradation of the quality of land, water and air by any pollutants,
19 including all physical, chemical and biological agents, should not be allowed; and, whereas,
20 the Guam Environmental Protection Agency has been vested with the responsibility to
21 *conserve surface and groundwater resources and to protect, maintain and improve the quality*
22 *and potability thereof; it is declared that the purpose of these regulations is to control*
23 *accelerated soil erosion, thereby preventing the pollution of Guam's waters from fertilizers,*
24 *pesticides, sediments and other polluting substances carried by sediment, and to protect*
25 *property and to promote the public health, safety and welfare by regulating grading, clearing,*
26 *grubbing and stockpiling, and by setting minimum standards for erosion and sedimentation*
27 *control for the island of Guam.*

28 It is also the purpose of these regulations to manage nonpoint source pollution consistent
29 with the latest "Guam Nonpoint Source Program", the "Guam Erosion & Sedimentation
30 Manual" guidelines and recommendations, the comprehensive approach set forth in Section
31 6217 of the Coastal Zone Act Reauthorization Amendments of 1990, "Protecting Coastal
32 Waters", codified as 16 U.S.C. §1455(b), and the "Guidance Specifying Management

1 Measures for Sources of Nonpoint Pollution in Coastal Waters” (EPA/840-B-92-002, dated
2 January 1993) issued under the authority of Section 6217(g) of the Coastal Zone Act
3 Reauthorization Amendments of 1990 recommendations.

4 B. Scope.

5 The provisions of these regulations impose requirements on those earth-moving activities
6 which create accelerated erosion or a danger of accelerated erosion and which require planning
7 and implementation of effective soil conservation measures. These regulations set forth
8 requirements for the control of grading, clearing and grubbing, and stockpiling, set limits for
9 erosion and sedimentation, establish administrative procedures and minimum requirements
10 for issuance of permits and provide for the enforcement of such rules and regulations.

11 C. Applicability.

12 These regulations apply to all clearing, grubbing, grading, embankment or filling,
13 excavating, stockpiling or other earth-moving operations on Guam which require a permit as
14 provided for in 21 Guam Code Annotated, Chapter 66 (as amended). Such applicable clearing
15 or earth-moving operations include those performed by private and governmental sectors,
16 including, the government of Guam and federal agencies on Guam. The Administrator shall
17 review every application for a permit for earth-moving operations in order to determine
18 applicability or exemption, as provided for in Section, Sub-Section D, below.

19 D. Exemptions.

20 An application for a clearing, grubbing, grading, embankment or filling, excavating or
21 other earth-moving activity shall be submitted to the Agency for review, and approved before
22 the activity is started. The following earth-moving activities may be exempted from these
23 regulations if the Administrator, in writing, determines that the scope or size of the activity
24 will not create either an erosion or other hazard to surface or marine waters of Guam:

- 25 1. Clearing, grading and filling for the purpose of constructing a house, pad
26 or driveway for a one-or two-family residence;
- 27 2. Grading in an isolated, self contained area;
- 28 3. An excavation for basements, footings, retaining walls or other
29 structures which are authorized by a valid building permit. Such exemptions shall not
30 include any excavation where dewatering is undertaken, any fill is made with the
31 excavated material, or any unsupported excavation of more than five (5) feet deep is
32 excavated after the completion of such structures.

1 4. Clearing & grubbing individual cemetery graves or plots without using
2 heavy equipment.

3 5. Excavations for wells, tunnels or utilities, which are permitted under
4 different rules & regulations.

5 6. Exploratory excavations for wells or for the purpose of soils testing,
6 provided that no clearing and grubbing or grading is to be performed.

7 7. Any excavation which is less than two feet in depth or which creates a cut
8 slope less than five feet in height and no steeper than a slope ratio of 1-1/2 horizontal to
9 1 vertical for coralline type soil and 3:1 slope for clay type soil, provided that all slopes
10 and open areas are stabilized and vegetated.

11 8. Any fill which is less than one foot in height and placed on undisturbed
12 terrain with existing topography of a ratio less than five (5) horizontal to one (1) vertical
13 and which does not obstruct a drainage course, provided the area of the property does
14 not exceed five thousand (5,000) sq. ft. and open areas are properly stabilized and
15 vegetated.

16 9. Field plowing and normal tilling operations, or clearing land for
17 agricultural purposes provided these activities or operations do not cause sediment and
18 runoff water to move beyond the edge of the farm boundaries and degrade the water
19 quality of the receiving water bodies. Initial field plowing or clearing land for
20 agricultural purposes must be performed in accordance with the implementation of a
21 conservation management system that meets minimum standards contained in the U.S.
22 Field Office Technical Guides and approved by either the appropriate Soil and Water
23 Conservation District created by 5 GCA Chapter 63, in accordance with an approved
24 USDA Soil Conservation Service "Conservation Plan" or the Director of the Guam
25 Department of Agriculture.

26 10. Clearing and grubbing of land for the purpose of making topographic
27 surveys, and hand clearing of trails for survey lines and for access for soil exploration
28 equipment.

29 E. Certain Rules of Word Usage.

30 1. Words used in the present tense include the future tense, and the singular
31 includes the plural unless the context clearly indicates the contrary.

32 2. The term "shall" is always mandatory and not discretionary; and the word

1 "may" is permissive.

2 3. A word or term not interpreted or defined by this article shall be used with
3 a meaning of common or standard utilization.

4 **Section 10102. Definitions.**

5 A. Meanings of words and terms. The following words and terms, when used in these
6 regulations, shall have the following meanings, unless the context clearly indicates
7 otherwise:

8 1. Accelerated erosion: The removal of the surface of the land through the
9 combined action of man's activities and natural processes at a rate greater than would
10 occur because of the natural process alone.

11 2. Administrator: The Administrator of the Guam Environmental Protection
12 Agency or his authorized representative.

13 3. Agency: The Guam Environmental Protection Agency (GEPA).

14 4. Board: Board of Directors, Guam Environmental Protection Agency.

15 5. Building pad: The compacted land area on which a structure is to be built.

16 6. Building permit: The official document issued by the Building Official,
17 government of Guam, authorizing specific construction activities.

18 7. Channel: A natural stream that conveys water; a ditch excavated for the
19 flow of water.

20 8. Check dam: A structure used to reduce or prevent excessive erosion by
21 reduction of velocities in water courses.

22 9. Chutes/flumes: -Channels of concrete or comparable material that are used
23 to conduct storm runoff down slopes where concentrated runoff would cause slope
24 erosion.

25 10. Clearing and grading permit: An official document issued by the
26 Building Official, Department of Public Works, government of Guam, authorizing
27 specified earth-moving operations. Such a permit requires the approval of the
28 Director of Land Management and the Administrator of the Guam Environmental
29 Protection Agency, unless otherwise exempted by the prevailing regulations, before its
30 issuance by the Building Official.

31 11. Clearing and grubbing: The removal of vegetation, including trees,
32 timber, shrubbery, and plants, when said vegetation is dislodged or uprooted from the

1 surface of the ground.

2 12. **Compaction:** The densification of a fill by *mechanical means*.

3 13. **Crimping:** A method used to secure fiber mulches. The operation is
4 performed by a crimping machine which partially punches the mulch into the soil.

5 14. **Deflection Structures:** Stones, or concrete or wooden groins placed in a
6 river or stream at an angle outward from the shore in a downstream direction to deflect
7 the current away from a critical area of the bank.

8 15. **Denuded:** Bare; naked; stripped.

9 16. **Developer:** Any person who is engaged in land development.

10 17. **Dissipate:** To scatter; disperse; cause to vanish.

11 18. **Diversion:** To change the accustomed course of all or part of a stream or
12 of sheet runoff.

13 19. **Diversion dike:** A temporary ridge of soil constructed at the top of a cut or
14 fill slope to divert overland flow from small area away from unstabilized slopes.

15 20. **Diversion ditch:** A ditch constructed to channel stream or sheet runoff into
16 desired directions, and may also be referred to as Interceptor Channel.

17 21. **Diversion terrace:** A channel or dike constructed up slope of an area for
18 the purpose of diverting storm water runoff.

19 22. **Earth material:** Any rock, coral, sand, gravel, natural soil or fill /or any
20 combination thereof.

21 23. **Earth-moving operations:** Human caused alterations to the existing
22 topography. Any construction or other activity which disturbs the surface of the land
23 including, but not limited to, clearing, grading, excavation, embankment, construction,
24 and development, subdivision development, mineral extraction, sand mining, and the
25 moving, depositing or storing of soil, rock or earth.

26 24. **Embankment:** A placement of soil, rock, or other material by man.

27 25. **Engineer:** A person duly registered as a professional civil and/or structural
28 engineer on Guam.

29 26. **Engineer's Soils Report:** A report on soils conditions prepared by a
30 professional engineer qualified in the practice of civil and/or structural engineering.

31 27. **Environmental Impact Statement:** A comprehensive and systematic
32 assessment of environmental impacts which would likely result from a human activity

1 or action. Its purpose is to provide, in part, a basis for making decisions which will
2 affect the human condition as well as the purely biological or natural conditions of our
3 environment. It should provide a reasonable set of alternatives and a preferred option
4 which appropriately balances various environmental concerns, including financial,
5 social or cultural concerns. The assessment should rely on proven assessment methods
6 both scientific and political.

7 28. Environmental Protection Plan: A document describing, for a proposed
8 development, the methods/equipment selected for use, expected environmental
9 problems during and after construction, and methods and equipment chosen to avoid,
10 mitigate or control potential adverse effects on the environment.

11 29. Erosion: (1) The wearing away of the land surface by water, wind, or
12 other geological agents. (2) Detachment and movement of soil or rock fragments by
13 water, wind or gravity.

14 30. Erosion check: A slit trench filled with porous matter that is oriented
15 perpendicular to the direction of flow in a ditch or swale to prevent the formation of
16 rills and gullies.

17 31. Erosion and sediment control: The control of solid material, both mineral
18 and organic, during an earth-moving operation, intended to prevent its transport out of
19 the operation area by means of air, water, or gravity.

20 32. Excavating: Lowering the existing ground elevation by earth-moving
21 operations.

22 33. Excavation or cut: A cavity formed by digging, cutting, quarrying,
23 uncovering, displacing or relocating soil or rock.

24 34. Existing grade: The grade prior to grading.

25 35. Fill: A placement of soil, rock, or other material by man to raise the
26 existing ground elevation.

27 36. Finish grade: The final grade of the site which conforms to the approved
28 plan.

29 37. Grading: Establishing a topographical profile by earth-moving operations
30 involving cuts and fills or excavation or other earth work activities.

31 38. House pad: The compacted land area on which a dwelling structure is to
32 be built.

1 39. **Interceptor channel:** A channel or dike constructed across a slope for the
2 purpose of intercepting storm water, reducing the velocity of flow, and diverting it to
3 outlets where it can be disposed.

4 40. **Interceptor dike:** A temporary ridge of compacted soil across a graded
5 right-of-way that is not subject to vehicular traffic, designed to intercept and divert
6 storm runoff to temporary outlets where it can be disposed of with minimal erosion.

7 41. **Intermittent stream:** A stream or portion of a stream that flows only in
8 direct response to precipitation and receives little or no water from springs other
9 sources.

10 42. **Jute Netting:** A heavy woven jute mesh laid directly over seedbeds to
11 minimize soil erosion in critical areas until vegetation can become firmly established.
12 Due to its thick fibrous composition, it also functions as a mulch to conserve soil
13 moisture, insulate against solar insolation, dissipate energy from falling raindrops and
14 reduce erosion caused by overland flow.

15 43. **Key:** A designed compacted fill placed in an earthen trench excavated
16 beneath the toe of a proposed fill slope.

17 44. **Land developer:** Any person who is engaged in land development.

18 45. **Land development:** The constructing, installing, placing, planting, or
19 building of surface structures, utility lines, shopping centers and malls, golf courses,
20 apartment complexes, schools, roads, highways, parking areas, or any other similar
21 activity.

22 46. **Level spreader:** An outlet constructed at zero grade across a slope to
23 collect concentrated runoff and covert it into sheet flow with non-erosive velocities
24 onto areas stabilized by existing vegetation.

25 47. **Mulch:** A natural or artificial layer of plant residue (fiber mulches) other
26 materials, such as sand or paper, on the soil surface.

27 48. **Mulch blanket:** Blanket type materials used in the establishment of
28 vegetation on swales, ditches and steep slopes where fiber mulch products do not
29 provide sufficient levels of protection during germination and early growth.

30 49. **Netting:** A method of securing fiber mulches through the use of jute,
31 plastic, paper or fiberglass nets on steep exposed slopes where crimping is not possible
32 and tacking will not perform satisfactorily.

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50. Outcrop: To come to, or be exposed on the surface.

51. Permeability: The property of a porous material which permits the passage or seepage of fluids, such as water for example, or air through its interconnection voids.

52. Permeable: Having a texture through which water can move.

53. Permit: An official document or certificate issued by the Building Official, government of Guam, authorizing the performance of a specified activity.

54. Permittee: The recipient of an approved permit issued by the Building Official, government of Guam.

55. Person: Any individual, partnership, firm, association, municipality, public or private corporation, subdivision or agency of the island of Guam or the Federal Government, trust, estate or any other legal entity.

56. pH: A numerical measure of the acidity or hydrogen ion activity of a soil. (The neutral point is pH = 7.0. All pH values below 7.0 are acid and all above 7.0 are alkaline).

57. Right-of-way: Right of passage over another person's land; a route that is lawful to use; a strip of land acquired for transport or utility construction.

58. Riprap: Broken rock, cobbles or boulders placed on earth surfaces such as the face of a dam or the bank of a stream, for protection against the action of water or waves; also applied to brush or pole mattresses, or brush and stone, or other similar materials used for soil erosion control.

59. Rough grade: The stage at which the grade approximately conforms to the approved plan.

60. Runoff: Water from rain or irrigation that flows over the ground to surface, marine or ground waters. It can collect pollutants from air or land and carry them to the receiving waters. Also, that part of the precipitation which runs off the surface of a drainage area and reaches a stream, body of water, drain or sewer.

61. Sandbag sediment barrier: Temporary barriers or diversions that are constructed of sandbags.

62. Sectional down drain: A prefabricated sectional conduit of half-round, bituminized fiber pipe or other material used to conduct storm runoff from one elevation to another without erosion of slope.

- 1 63. Sedimentation: The depositing of sediments.
- 2 64. Sediment retention basin: A temporary dam or basin, or a combination of
3 both, that will trap and store sediment produced on exposed areas and delivered to the
4 structure by storm runoff.
- 5 65. Sediments: Mineral or organic solid materials that settle to the bottom of
6 water.
- 7 66. Site: The spacial location, under the same ownership, of an actual or
8 planned structure or structures, or earth-moving activity.
- 9 67. Slope: An inclined ground surface, the inclination of which is expressed
10 as a ratio of horizontal distance to vertical distance.
- 11 68. Soil: The unconsolidated mineral and organic material found on the
12 earth's upper layer, that may be dug or plowed and in which plants can grow.
- 13 69. Soil engineering: The application of the principles of soil mechanics in
14 the investigation, evaluation and design of civil works involving the use of earth
15 materials, and the inspection and/or testing of the construction thereof.
- 16 70. Soil erodibility factor (k): A measure of the susceptibility of soil particles
17 to detachment and transport by rainfall and runoff.
- 18 71. Soil slopes: All denuded cut, fill or natural soil constituted slopes.
- 19 72. Stabilization: The proper placing, grading and/or covering of soil, rock or
20 earth to insure its resistance to erosion, sliding, or other movements.
- 21 73. Stockpiling: Temporary open storage of earth materials upon any premises
22 where a grading permit has been issued for the purpose of using the materials at some
23 other premises at a future time.
- 24 74. Storm water management: The practice of using detention measure to
25 reduce the impact of minor storms which cause accelerated erosion of stream channels
26 and drainage ways (not to be confused with control of flood flows).
- 27 75. Storm water runoff: Rain that is not absorbed when it comes in contact
28 with the soil and thus runs down hill into waters of Guam. This runoff may carry soil
29 with it.
- 30 76. Strip planting: The planting of strips of wet soil tolerant, high erosion
31 resistant vegetation in the critical area near the waterline of a major waterway, and the
32 planting of conventional robust rooted grasses and legumes above the critical zone.

1 77. Subdivision: The division, re-division or change of lot lines of a lot, tract,
2 or parcel of land for the purpose of leasing, transferring ownership, or development,
3 either immediately or in the future.

4 78. Tacking: A method of securing mulches by the application of an asphalt
5 or chemical binder which binds the individual fibers together to form a resistant
6 blanket.

7 79. Temporary stabilization: Protecting soil from excessive erosion for a
8 short period of time. Usually, temporary stabilization is designed to last for less than
9 one year.

10 80. Terrace: A relatively level step constructed in the face of a grade slope
11 surface for drainage and maintenance purposes.

12 81. Territory: The Island of Guam, United States of America.

13 82. Tetrahedron: Solid figure with four (4) triangular surfaces.

14 83. Uniform Building Code (UBC): The most recent edition of minimum
15 standards to safeguard life or limb, health, property and public welfare by regulating
16 and controlling the design, construction, quality of materials, use and occupancy,
17 location, and maintenance of all buildings and structures within Guam, as published by
18 the International Conference of Building Officials.

19 84. Waters of Guam: All shore waters streams, lakes, wells, springs, irrigation
20 systems, wetlands, sinkholes, marshes, swamps, watercourses, waterways, drainage
21 systems and other bodies of water, surface and underground, natural or artificial,
22 publicly or privately owned, on or surrounding Guam.

23 85. Watershed: For any river, stream or other water body, the drainage area
24 that contributes water to that water body.

25 86. Watershed divide: The line that follows the ridges or summits forming the
26 exterior boundary of a drainage basin and separates one drainage basin from another.

27 87. Waterway: A natural course or constructed channel for the flow of water.

28 **Section 10103. Permit Issuance and Denials.**

29 **A. Permits Required.**

30 1. Unless exempted, no person shall commence or perform any grading,
31 clearing, grubbing, embankment, filling, excavation or other earth-moving activity
32 without a grading permit;

1 2. Unless exempted, no person shall commence or perform any stockpiling
2 without a stockpiling permit.

3 B. Permit Application Process. An applicant shall obtain the required application from
4 the Building Permit Section, Department of Public Works located at the One-Stop Permit
5 Center, and shall complete and submit the application to the One-Stop Permit Center for
6 review and approval of all concerned agencies, including the Guam Environmental Protection
7 Agency.

8 C. Permit Application Contents.

9 1. A description of the proposed activity, including its purpose, proof of land
10 ownership (title, deed or authorized letter) and other pertinent information as may be
11 required by the Administrator.

12 2. A vicinity map or plan of the site indicating:

13 a. Site information. The location, including names and
14 locations of streets, roadways, and right-of-ways; property line locations,
15 dimensions and azimuths, easements and setbacks of property; the location of
16 any utility and utility lines, buildings, structures and improvements on or
17 within 100 feet of the site; prominent visible rock out-cropping; elevations,
18 dimensions, location, extent and slopes of all proposed earth-moving
19 activities shown by contours and/or other means; the area in square feet of the
20 land to be affected; and the quantities of excavation and fill involved.

21 b. Water course information. Locations, dimensions and flow of
22 springs, rivers, wetlands, wells and streams; natural drainage depressions,
23 basins and sinks; flood plains on the project site and downstream locations
24 which will undergo changes due to the proposed earth-moving operations; and
25 existing and proposed water quality monitoring stations located on or nearby
26 the project site.

27 c. Vegetation information. Location and type of existing trees with a
28 diameter of 12 inches and greater.

29 3. Required maps will be prepared and signed by a licensed land surveyor.
30 Grading plans and specifications will be prepared and signed by an engineer.
31 Required maps should conform to the latest Zoning Code of Guam's Land Use Plan
32 and subdivision law. The scale shall be no smaller than 1 inch = 50 feet or 1 inch = 5

1 meters.

2 4. An application for a stockpiling permit shall include: a plot plan showing
3 the property boundaries; easements, setbacks, and location of the proposed stockpiles;
4 quantities; height of stockpile; the kind/source of the material to be stockpiled;
5 expected life of the stockpile, and any other information required by the Administrator
6 to control dust, drainage or sedimentation problems. Where stockpiling is for the
7 purpose of surcharging to stabilize or consolidate an area, the permittee shall submit an
8 engineer's soil report which shall include data on the effect such surcharging will have
9 on adjacent buildings or structures.

10 5. Required Plans.

11 a. Erosion and Sediment Control Plan; This plan is required for
12 clearing, grading, grubbing, embankment or filling, excavation or other earth-
13 moving operations not otherwise exempted by these regulations.

14 b. Storm Water Runoff Drainage System Plan. This plan, in addition
15 to the Erosion and Sediment Control Plan, is required when the area to be
16 graded is more than five thousand (5,000) square feet or a proposed cut or fill
17 is greater than five (5) feet in height.

18 c. Both the Erosion and Sediment Control and Storm Water Runoff
19 Drainage Systems Plans shall:

20 i. be prepared and signed by an engineer in accordance with
21 these regulations, and the best management practices (BMP) guidance
22 manual or other application of BMPs; and

23 ii. show the method to be used for controlling erosion and
24 disposal of storm water runoff prior to and post construction, including
25 drainage devices such as terraces, berms, ditches culverts, subsurface
26 drains, sedimentation basins, and the estimated runoff quantities of the
27 areas served by each drain and drainage structure.

28 d. Environmental Protection Plan will be required depending on
29 the intensity and scope of the project. This plan will describe the methods and
30 equipment to be used on site: expected or anticipated environmental problems
31 during and after construction: and the methods and equipment that may be
32 used to avoid, mitigate or control potential adverse effects on the environment.

1 6. When a proposed cut or fill is greater than five (5) feet or the proposed
2 grading is on land with slopes exceeding five percent (5%), or when any fill is to be
3 placed in a gully, or when the fill material will be a highly plastic clay, the applicant
4 shall submit to the Administrator for the Agency's evaluation and review, an
5 engineer's soils report signed by an engineer and approved by the owner. The soils
6 report shall include data regarding the nature of the distribution and engineering
7 characteristics of existing soils, and the subsurface conditions at the site. It shall
8 recommend the limits for the proposed grading, the fill material to be used, the
9 geotechnical calculations for the cut or fill area, and the manner of placing, including
10 the heights and slopes of cut and fill sections.

11 7. When an activity or project is located within an environmentally sensitive
12 area (e.g.; areas that affect seashore, rivers and streams, wetlands, critical habitats, and
13 aquifers), an Environmental Impact Assessment (EIA) must be submitted, unless the
14 Administrator determines in writing that the activity is exempted from EIA
15 requirements.

16 8. If wetlands exist on the property to be cleared and grubbed, graded or used
17 for stockpiling of earth materials, the wetlands must be identified with both field
18 markings and by mapping on the site and/or grading plan(s). Wetlands cannot be
19 cleared, grubbed, graded or otherwise be used as a stockpiling site without first
20 obtaining both a valid Guam Wetland Development Permit and a U.S. Army Corps of
21 Engineers Section 404 fill or discharge permit.

22 9. The Administrator may require that wetlands, on the property to be cleared,
23 grubbed or used for stockpiling of earth materials, be officially delineated, in whole or
24 in part, when conditions such as slope, soil stability, proximity of work or other
25 performance related conditions warrant an official delineation. Individuals required to
26 delineate wetlands in accordance with this provision shall apply the mapping
27 requirements of the Guam Environmental Protection Agency Wetlands Mapping
28 Policy, revised November 9, 1995.

29 10. Other permits, plans or approvals associated with and issued for the
30 proposed project shall be submitted with the permit application. Activities described
31 in the permit application shall be consistent with these permits, plans or approvals.
32 Such documents include, but are not limited to:

1 a. Any required conditional use seashore clearance, wetland, Section 401
2 WQC, Section 404 permits (CWA), and planned development approvals, height
3 variances, plan review use approvals, or re-zoning under the Guam Zoning
4 Regulations;

5 b. Sub-division approvals, when an application includes the grading of a
6 development that is to be subdivided, pursuant to the Guam Subdivision Rules and
7 Regulations;

8 c. Conditional use approvals from Territorial Land Use Commission, when the
9 area to be graded or excavated will be used as quarry, and extracted materials used
10 to fill a different area or sold as a fill material by the owner.

11 **D. Permit Conditions.**

12 1. No permit for earth-moving operations will be issued that will cause erosion
13 and sediment loads or cause pollution to the waters of Guam, as defined by the latest
14 Guam Water Pollution Control Act and the Water Quality Standards, unless an
15 Environmental Protection Plan and an Erosion and Sediment Control Plan have been
16 approved by the Agency.

17 2. The Administrator may attach such conditions as may be reasonably
18 necessary to ensure that any grading work is for a use or structure permitted in
19 accordance with zoning requirements, and to prevent creation of a nuisance or hazard
20 to public or private property, health or welfare. Such conditions may include but are
21 not limited to:

22 a. improvements of any existing grading to bring it up to the standards
23 of these regulations;

24 b. requirements for fencing of excavation or fill to minimize hazards;

25 c. requirements for retaining walls or other earth retention structures
26 to prevent loss of, support to, erosion of, and interference with natural
27 drainage patterns on adjacent properties;

28 d. requirements involving clean-up of an area; and

29 e. limitations on the months, days and hours of permitted work.

30 3. The issuance of a grading permit shall constitute an authorization to do
31 only that work which is described in the permit and in the plans and specifications
32 approved by the Administrator.

1 4. Permits issued under these regulations shall not relieve the permittee of the
2 responsibility for securing permits or approvals for work to be done which is regulated
3 by any federal laws or other laws of Guam, or by department, or division of the
4 governing agencies of the government of Guam.

5 5. Permits issued under these regulations shall be consistent with other
6 permits, plans or approvals associated with the proposed project.

7 6. Where any operations are delayed for any reason, a revised work schedule
8 shall be submitted to the Administrator which describes any required modifications to
9 the temporary storm water drainage system and to the Erosion and Sediment Control
10 Plan, and other information the Administrator may require.

11 7. A copy of the permit, plans and specifications for grading, clearing &
12 grubbing, or stockpiling shall be maintained at the job-site during the progress of the
13 work.

14 E. Permit Denials.

15 The Administrator shall deny a clearing and grubbing, grading or stockpiling permit if
16 there is reasonable cause for concern that the work as proposed by the applicant may present a
17 risk or endangerment to public health or the environment. Factors to be considered in
18 determining probability of dangerous conditions include, but are not limited to:

- 19 1. possible saturation of ground by rain;
- 20 2. dangerous geological conditions or flood hazards;
- 21 3. undesirable surface water runoff; and
- 22 4. subsurface conditions such as the stratification and faulting of rock, nature
23 and type of soil or rock.

24 **Section 10104. Erosion and Sediment Control Plans.**

25 A. General Requirements.

26 1. All earth-moving activities on Guam shall be conducted in such a way as to
27 prevent accelerated erosion and the resulting sedimentation. To accomplish this all
28 persons engaged in earth-moving activities shall design, implement, and maintain
29 erosion and sediment control measures which effectively prevent accelerated erosion
30 and sedimentation. These erosion and sediment measures must be as set forth in
31 Erosion and Sediment Control Plans submitted, reviewed and approved by GEPA.

32 2. All clearing, grading, embankment or filling, excavating and other earth-

1 moving operations shall proceed only in accordance with an Erosion and Sediment
2 Control Plan, prepared in accordance with the requirements set forth in these
3 regulations, and duly approved by the Agency.

4 3. An approved Erosion and Sediment Control Plan does not abrogate a
5 permittee's responsibility to comply with all other applicable Guam and federal laws
6 and regulations.

7 **B. Agency approval of Erosion and Sediment Control Plans.**

8 1. Four (4) copies of a proposed Erosion and Sediment Control Plan shall be
9 submitted to the Agency with the permit application for earth-moving operations.

10 2. The Agency shall have thirty (30) working days to approve or disapprove of
11 such plan.

12 **C. Compliance.**

13 1. All clearing, grading, embankment or filling, excavating and other earth-
14 moving operations, except those otherwise exempted from these regulations by the
15 Administrator, must proceed in accordance with a duly approved Erosion and
16 Sediment Control Plan.

17 2. Earth-moving operations in progress, other than quarrying, shall comply
18 with these regulations within fifteen (15) calendar days of the effective date of these
19 regulations. Quarrying operations shall comply with these regulations within thirty
20 (30) calendar days of the effective date of these regulations.

21 **Section 10105. Erosion and Sediment Control Plans and Measures.**

22 **A. General policies for Erosion and Sediment Control.**

23 1. All earth-moving operations on Guam shall be conducted in a manner that
24 prevents accelerated land erosion, transportation of sediment to and along highways, or
25 siltation of rivers, estuaries and marine waters.

26 2. The area affected by earth-moving operations shall be kept to a minimum by
27 either selective clearing, increment phases of development or other effective means.
28 The Erosion and Sediment Control Plan must contain measures that ensure that each
29 phase of any proposed large development affects less than twenty (20) acres.

30 3. All earth-moving operations shall be scheduled during periods of expected
31 low rainfall.

32 4. Any earth-moving operations authorized under these regulations shall be

1 performed so as not to violate applicable provisions of the latest Guam Water Quality
2 Standards.

3 5. No person shall perform any earth-moving operation so as to cause falling
4 rocks, soil or debris in any form to fall, slide or flow onto adjoining properties or
5 waters of Guam.

6 6. All work areas shall be maintained so as to minimize dust which may cause
7 a nuisance or hazard to others, and in conformance with the Guam Air Pollution
8 Control Standards and regulations.

9 7. Where construction equipment will make frequent crossings of a natural
10 drainage course, plans shall provide for temporary culverts or bridge structures to be
11 installed. The required clearances from concerned agencies shall be obtained before
12 any construction of temporary crossing access begins.

13 8. The erosion and sediment control measures set forth in this Section are
14 required, unless the Erosion and Sediment Control Plan shows that the alteration of
15 these measures and facilities or inclusion of other measures and facilities will better
16 prevent accelerated erosion and sedimentation.

17 **B. Required contents of Erosion and Sediment Control Plans.**

18 1. Description of the Project.

19 The plan shall include a detailed narrative description, with photographs and
20 construction drawings, of the proposed project.

21 2. Project Site Plan.

22 a. The necessary information is that which is required in Section
23 10103.C. Permit Application Contents. Plan sheet size shall not be smaller
24 that eighteen (18) inches x twenty-four (24) inches and not larger than thirty
25 (30) inches x forty-two (42) inches. Plan sheet sizes shall not vary.

26 b. Soil description including: soil classification by USDA Natural
27 Resources Conservation Service "Soil Taxonomy Classification System"; soil
28 erodibility factor; soil permeability and percolation rates; type and extent of
29 out-croppings; depth of soil; capability for establishing vegetation; and
30 coefficient of runoff.

31 c. Evaluation of subsurface information. Subsurface investigations
32 shall consist of drilling, excavations, or observations of naturally exposed soil

1 and bedrock exposures at sufficient intervals and depths to indicate the type of
2 material or condition to be encountered at final grading. The person or firm
3 making the investigation shall submit a written report of their findings and
4 recommendations. This information is required where the stability will be
5 lessened by proposed grading or filling, where any other weaknesses are
6 found, or where any of the following conditions are discovered or proposed:

- 7 i. At locations where a fill slope is to be placed above or a cut
8 slope;
- 9 ii. At proposed cuts exceeding fifteen (15) feet in height
10 unless in competent rock as determined by an engineer;
- 11 iii. At locations of proposed fills exceeding fifteen (15) feet in
12 height;
- 13 iv. Where sides of hill fills are to be placed on existing slopes
14 steeper than fifteen percent (15%);
- 15 v. Wherever groundwater from either the grading project or
16 adjoining properties is likely to reduce stability;
- 17 vi. At zones of trapped water or high water table; or
- 18 vii. Where the topography is indicative of landslides, as
19 determined by an engineer.

20 d. Site Assessment. Consider the detrimental effects of construction of
21 the site as it pertains to: erosion and loss of sediments; slope stability; water
22 quality; plant communities; wildlife and aquatic life; and condition of marine
23 waters and reef flats which will receive storm water runoff, either directly or
24 indirectly, from the project site.

25 3. Grading Plan.

26 It is the purpose of this paragraph to ensure that minimum grading is performed
27 and that natural contours and topography will be retained wherever feasible.

28 a. Grading shall be designed and implemented so as to blend in with
29 the surrounding area.

30 b. All grading plans and specifications shall show, using contours,
31 cross sections, spot elevations or other means, the condition of the land before
32 and after grading.

1 c. The grading plan shall provide information regarding the location
2 and source of imported fill material, and the location for disposal of excess
3 excavation material.

4 d. Where a grading activity is to occur in increments or phases, the
5 plan shall also include the plan for future site development and the proposed
6 grading of future increments.

7 4. Construction Schedule.

8 a. Construction increments shall be described in detail and identified
9 on the project plan.

10 b. The schedule will indicate completion dates for each construction
11 increment and the construction sequence of erosion and sediment control
12 measures. Each increment phase of work shall have an approved
13 Environmental Protection Plan and Soil Erosion and Sedimentation Control
14 Plan from the Agency.

15 c. The Agency shall check the adequacy of the schedule with respect to
16 short term and long term erosion anticipated on the project site. The
17 construction schedule shall be checked to ensure prompt establishment of
18 protective vegetation with full recognition of climatic and other factors that
19 influence its establishment.

20 5. Storm water Drainage System and Control of Site Water Runoff.

21 a. The proposed temporary and permanent, natural and man-made,
22 storm water drainage systems shall be depicted in detail in the drawing plans,
23 including, but not limited to, dimensions, alignments and elevations of all
24 structures as well as the anticipated volume and velocity of the storm water.
25 Design calculations for the drainage systems and siltation basins, best
26 management practices, and other pertinent structures, shall be submitted. The
27 following shall also be provided:

28 i. The runoff to be expected during and after the proposed
29 development;

30 ii. The size of drainage areas above cuts and slopes;

31 iii. Estimate soil loss volume;

32 iv. The methods for trapping sediments, reducing erosion of

1 drainage ways, and for controlling the collection and discharge of
2 storm water during and after construction.

3 v. The method and schedule of construction of waterway
4 crossings. Sediment control structures for natural waterways shall be
5 scheduled for installation prior to any earth-moving operations.

6 b. Adequate provisions shall be made to prevent surface waters from
7 damaging the cut face of an excavation or the sloped surfaces of a fill. Positive
8 drainage shall be provided to prevent the accumulation or retention of surface
9 water in pits, gullies, holes or similar depressions. All drainage facilities shall
10 be designed to carry surface water runoff to a storm drain that will discharge to
11 a catchment facility within the project site. The Administrator may require
12 such drainage structures and pipes to be constructed or installed, which in his
13 opinion, are necessary to prevent erosion damage and to adequately carry off
14 surface waters. The flow of any existing and known natural underground
15 drainage shall not be impeded or changed so as to cause damage to adjoining
16 property.

17 c. During construction, all storm sewer inlets shall be protected with
18 silt traps.

19 d. If a project to be developed is covered under the Federal Storm
20 Water Regulations (40 CFR Parts 122 & 123), a notice of intent to discharge
21 storm water to surface and marine waters of Guam must be submitted to US
22 Environmental Protection Agency and a copy furnished GEPA. An NPDES
23 permit which authorizes the discharge must also be secured.

24 e. Structural measures such as berms, dikes, traps, basins, shall be
25 installed prior to any other grading, clearing, or disturbance of the existing
26 surface of the site.

27 f. Diversion Terraces.

28 i. Diversion terraces shall be constructed up-grade of a project
29 area to convey runoff around the project area. For temporary
30 diversions, the channel shall have capacity to convey 1.6 cubic feet per
31 second per acre of land tributary to it. For permanent diversions, the
32 channel shall have capacity to convey 2.75 cubic feet per second per

1 acre of land tributary to it.

2 ii. Diversion terraces shall be grassed or lined with erosion
3 resistant material to prevent accelerated erosion within the channel.

4 iii. Outlet structures shall be designed to maintain a discharge
5 velocity of less than 2.0 feet per second and all areas affected by the
6 construction activity shall be stabilized before the outlet structures
7 shall be used.

8 g. Interceptor Channels.

9 i. Interceptor channels may be used within the project area to
10 reduce the velocity of the flow and thus prevent accelerated erosion.

11 ii. Water collected by interceptor channels shall be conveyed
12 to sedimentation basins or to vegetated areas but not directly to
13 streams.

14 iii. Outlets to vegetated areas shall be designed to maintain an
15 outlet velocity of less than 2.0 feet per second. Outlet structures shall
16 be screened to lower the amount of suspended solids in the discharge
17 water.

18 h. Channels of Conveyance.

19 All channels used to convey water through a project area shall be
20 designed to have a velocity of less than 1.5 feet per second. Where this is not
21 possible, the channel shall be grassed or lined with erosion resistant material.

22 i. Sedimentation Basins.

23 i. The basin shall be cleaned when the storage capacity of the basin is
24 reduced to five thousand (5,000) cubic feet per acre of project area tributary to
25 the basin.

26 ii. Water from a sedimentation basin shall not be discharged to a
27 natural waterway. Designs of sediment basins must provide for enough
28 storage to give time for runoff water to be leached into the ground.

29 iii. Outlets of sedimentation basins shall be screened and designed in a
30 manner which does not discourage regular maintenance.

31 iv. Sedimentation basins shall be structurally sound and properly
32 secured to protect them from unauthorized acts of third party activities.

1 6. Cut and fill.

2 a. The conditions of the following subsections may be modified by the
3 Administrator based on a supportive engineer's soils report, and receipt of
4 approvals from the owner and concerned agencies:

5 i. Height. Where a cut or fill is greater than fifteen (15) feet in height,
6 terraces, or benches shall be constructed at vertical intervals of fifteen (15) feet
7 except where only one bench is required, the single bench shall be constructed
8 at the midpoint. The minimum width of such terraces or benches shall be at
9 least eighteen (18) feet and provided with drainage provisions to control
10 erosion on the slope and face and bench surface.

11 ii. Cut Slopes. Under the following conditions, no cut may be steeper
12 in slope than the ratio of its horizontal to its vertical distance as shown below:

13 (a) 2 horizontal to 1 vertical in unweathered rock or mudrock;

14 (b) 2 horizontal to 1 vertical in decomposed rock; or

15 (c) 2 horizontal to 1 vertical in soils of low plasticity for cuts of
16 any height in highly plastic soils. The engineer's soils report shall
17 include the recommended slope design, and design calculations
18 necessary to demonstrate slope stability.

19 iii. Fill slopes shall not be steeper than the ratio 3 horizontal to 1
20 vertical except that fill using highly plastic clays shall have slopes specifically
21 recommended in the engineer's soils report signed by a professional civil
22 engineer, and approved by the owner. The engineer's soils report shall include
23 the recommended slope design, and design calculations necessary to
24 demonstrate slope stability.

25 b. Fill material shall be selected to meet the requirements and conditions of the
26 particular fill for which it is to be used. The fill material shall not contain vegetation
27 or organic matter. Where rocks, concrete, or similar materials of greater than eight (8)
28 inches in diameter are incorporated into the fill, they shall be placed in accordance
29 with the recommendation of the professional civil engineer.

30 c. Before placing fill or stockpiling, the natural ground surface shall be
31 prepared by removing the vegetation and, shall be notched by a series of benches
32 and/or subsurface drains installed.

1 d. No fill shall be placed over any waters of Guam (e.g.; spring, marsh,
2 wetlands), refuse dumps, or soft, soggy or springy foundations. The plan must
3 highlight possible wetland characteristics on the site and adjacent properties.

4 e. Fill materials shall be spread and compacted in a series of eight (8) inch to
5 ten (10) inch layers, unless otherwise recommended by the professional civil engineer.
6 For slopes, the fill shall be compacted to ninety five percent (95%) maximum density
7 as determined by the most recent ASTM Soil Compaction Test D1557. The engineer's
8 soils report shall include the recommended slope design, and design calculations
9 necessary to demonstrate slope stability.

10 f. Distance from property line. The following requirements may be modified
11 by the Administrator when cuts or fills are supported by retaining walls or when the
12 permittee submits an engineer's soils report stating that the soil conditions will permit
13 a lesser horizontal distance without causing damage or danger to the adjoining
14 property. The engineer's soils report shall include the recommended slope design, and
15 design calculations necessary to demonstrate slope stability. The horizontal distance
16 from the top of a cut slope or the bottom of a fill slope to the adjoining property line
17 shall not be less than as follows:

18 Heights of cut or fill	Distance from property line (in feet)
19 Zero feet to 4 feet	4
20 More than 4 feet to 10 feet	6
21 More than 10 feet to 15 feet	8
22 More than 15 feet	10

23 **7. Maintenance Procedures.**

24 a. A maintenance program for the erosion and sedimentation control structures
25 and facilities shall be established. The program shall include, but not be limited to, a
26 schedule for inspecting the facilities and for removing and disposing of sediment
27 materials from the control structures, or project area, and specific duties of the
28 designated maintenance personnel.

29 b. If the original owner has sold the property, the subsequent owner shall be
30 responsible for maintaining the permanent measures that have been installed on the
31 property.

32 **8. Disposal of Spoil Materials.**

1 The information concerning the disposal of spoil materials shall include the
2 following: type of spoil material; location of disposal area; method for processing and
3 disposing of spoil materials; procedures for preventing soil loss to adjacent
4 watercourses; and, if intending to burn spoil materials, burning procedures for
5 combustible spoil material. Burning requires a permit from the Guam Fire
6 Department.

7 9. Stockpiles.

8 The following information shall be provided: source of stockpile material;
9 location, slope, and height of stockpile; duration that the material is to be stockpiled;
10 provisions to prevent erosion and sediment loss from rain and wind action; plan for
11 removing stockpiles at project completion.

12 10. Stabilization of Affected Areas.

13 a. Stabilization of slopes, channels, ditches, berms, diversions, silt dams, or
14 any disturbed areas shall begin as soon as possible and no later than thirty (30)
15 calendar days after the final grade or final earth-moving activities has been completed.

16 b. Electric power, and telephone trenches are to be stabilized as soon as
17 possible and no later than thirty (30) days after backfill

18 c. Stabilization of stream banks shall be scheduled during periods of expected
19 low rainfall.

20 d. Where it is not possible to permanently stabilize a disturbed area
21 immediately after the final earth-moving has been completed or where the activity
22 ceases for more than thirty (30) calendar days, interim or temporary stabilization
23 measures shall promptly be implemented and enforced.

24 e. Any disturbed area not paved, sodded or built shall be seeded and mulched
25 with vegetative cover appropriate to the soil type, as recommended by an engineer, or
26 the condition of the area based on soil test analysis done by a laboratory. This
27 condition does not prohibit the use of matting, gabion, armor coating on erodible
28 surfaces or other type of vegetative cover that will minimize erosion.

29 f. All structural sediment control measures are to remain in place until
30 permission for their removal has been obtained from the Agency.

31 11. Protection and Removal of Native Vegetation.

32 a. In order to protect native vegetation from construction impacts, the

1 following information shall be provided: location and description of native vegetation
2 whose root zone will be affected by compaction, fills, trenches, and changes in the
3 groundwater table; measures which will prevent conditions damaging to vegetation;
4 and criteria used to determine removal;

5 b. Whenever feasible, natural vegetation should be retained. If their removal
6 is necessitated, they shall not be stored or deposited along banks of streams, rivers or
7 natural water courses after being uprooted, or displaced from the ground by
8 excavation, clearing or grubbing. Removed vegetation shall be disposed of at a
9 disposal site approved by the Administrator, and removed from the site within a
10 reasonable time, not to exceed one (1) month from date of removal.

11 **12. Establishment of Vegetation.**

12 a. Where the establishment of vegetation is required on slopes of cut and fill,
13 graded areas, and watercourses, etc., the following information shall be provided:

14 i. Location and areas to be vegetated;

15 ii. An indication of whether vegetation is to be temporary or
16 permanent;

17 iii. Type and quantity of seeds or plants;

18 iv. Ground conditions, including: soil surface condition, pH,
19 permeability, size distribution, slope angle, slope length, and aspect, nutrients;

20 v. Type and quantity of mulch;

21 vi. Type and quantity of fertilizer;

22 vii. Method and schedule of seeding, mulching, planting, and
23 fertilizing;

24 viii. Irrigation schedule.

25 b. The plan shall provide for the revisiting of the location every three (3)
26 months to verify that vegetation has been successfully established. If not successful
27 the site must be revegetated until the area is successfully revegetated.

28 **13. Certification.** The Plan shall be stamped and signed an engineer.

29 **Section 10106. Special Requirements.**

30 **A. Protection of adjoining properties.**

31 Any person performing or causing to be performed any excavation or fill shall,
32 at his own expense, provide the necessary means to prevent the movement of earth to

1 the adjoining properties, and to maintain the existing natural grade of adjoining
2 properties.

3 B. Protection of public utilities.

4 Any person performing or causing to be performed any excavation or fill shall
5 be responsible for the maintenance or restoration of street pavements, sidewalks and
6 curbs, and improvements of public utilities which may be affected. Such maintenance
7 shall be in accordance with the requirements of the Department of Public Works,
8 government of Guam agencies and affected public utilities. At cuts fronting any street,
9 a suitable and adequate barrier shall be installed to provide protection to the public.

10 C. Removal of silt or other debris.

11 Any person depositing or causing to be deposited, any silt or debris in ditches,
12 water courses, drainage facilities, and public roadways, shall remove such silt or other
13 debris. In case such person shall fail, neglect or refuse to comply with the provisions
14 of this Section within forty-eight (48) hours after written notice served upon him,
15 either by mail or by personal service, the Administrator may proceed to remove the
16 silt and other debris or to take any other action he deems appropriate. The costs
17 incurred for any action taken by the Administrator shall be payable by such person.

18 D. Safety precautions.

19 At any stage of the grading, grubbing, or stockpiling, if the Administrator finds
20 that further work as authorized by an existing permit is likely to create soil erosion
21 problems or to endanger life, limb or property, he may require safety precautions.
22 These precautions may include but are not limited to: flattening exposed slopes;
23 constructing additional silting or sediment basins, providing drainage facilities or
24 benches; removing rocks, boulders, debris and other dangerous objects which, if
25 dislodged, are likely to cause injury or damage; or constructing fences or other suitable
26 protective barriers.

27 E. Creation of individual building sites.

28 Hillside lots shall be graded in such a manner that any parcels which may be
29 created, including all separate building sites which may be contained within said
30 parcels, can be satisfactorily graded and developed as individual building sites.

31 F. Protection of Sink Holes.

32 Earth-moving operations shall not be performed in sink holes or in such close

1 proximity as to threaten their viability, function or the conveyance of surface water
2 into such features unless specifically authorized by the administrator. In the event a
3 developer proposes to modify or use a sinkhole, an environmental and hydrogeologic
4 assessment must be performed to ensure adverse affects will not result, including but
5 not limited to the displacement of groundwater, interference with well production,
6 significant changes to groundwater recharge, flooding, or the threat or introduction of
7 any pollutant to groundwater, regardless of zone or category.

8 **Section 10107 Project Completion.**

9 **A. Products to be submitted.**

10 1. As-built/graded plan, prepared by an engineer or land surveyor, upon
11 completion of an earth-moving operation covering an area of greater than one (1)
12 acre;

13 2. Soils report, when earth-moving operations involve cuts or fills for which an
14 engineer's soils report is required. The report shall contain:

15 a. A description of materials used in the fill and its moisture content at
16 the time of compaction;

17 b. The procedures used in depositing and compacting the fill;

18 3. A description of the preparation of the original ground surface before
19 making the fill, but not limited to benching and subsurface drainage;

20 4. A plan or tabulation showing the general location and elevation of
21 compaction tests made in the fill together with a tabulation of relative compaction
22 densities obtained at each location, the location of sub-drains, and other pertinent
23 features of the fill necessary for its stability; and

24 5. Certification that the work was done in conformity with these regulations,
25 the approved plans and specifications, and the engineer's soils report.

26 **B. Final inspection and approval.**

27 The permittee or his agent shall notify the Administrator or his representative
28 when the earth-moving operation is ready for final inspection. Final approval shall not
29 be given until all approved work has been completed. Final approval shall be
30 dependent on installation of all drainage structures and their protective devices,
31 establishment of a healthy vegetation growth in conformance with the approved plans
32 and specifications, and submittal of any required reports.

1 C. Fees for additional plan reviews.

2 Additional plan reviews required for any changes, additions or revisions to
3 approved plans are Thirty Dollars (\$30.00) per hour, or the total hourly cost to the
4 jurisdiction, whichever is the greatest. This cost shall include those associated with
5 supervision, overhead, equipment, hourly wages and fringe benefits of the employees
6 involved.

7 D. Clearing and grubbing permits.

8 Before issuing a clearing and grubbing permit clearance, the Administrator shall collect
9 a clearance fee of Twenty Dollars (\$20.00) for clearing & grubbing areas greater than fifteen
10 thousand (15,000) square feet plus Two Dollars (\$2.00) per each additional one thousand
11 (1,000) square feet or fraction thereof. No fee shall be charged for clearing and grubbing less
12 than fifteen thousand (15,000) square feet.

13 E. Stockpiling permits.

14 Before issuing a stockpiling permit clearance, the Administrator shall collect a permit
15 clearance fee of Seven Dollars and fifty cents (\$7.50) for stockpiling in excess of the one
16 hundred (100) cubic yards, plus One Dollar and fifty cents (\$1.50) for each additional one
17 hundred (100) cubic yards or fraction thereof.

18 F. Work occurring without a permit.

19 Where work for which a permit is required by these regulations has commenced or has
20 been accomplished without a permit, a permit shall be obtained, and two times the fees
21 specified above shall be assessed, provided that such work complies with or may be made to
22 comply with the requirements of these regulations. If the grading/clearing/stockpiling/
23 grubbing work accomplished or commenced cannot be made to comply with the provisions of
24 these regulations, the person or persons responsible for the initiation or accomplishment of
25 such grading work shall restore the land to its original condition and shall obtain a certificate
26 of completion thereof from the Administrator. Notwithstanding the above, the person or
27 persons responsible for such grading/clearing/grubbing/stockpiling shall be deemed to have
28 violated the provisions of these regulations by performing such activity(ies) without a permit.

29 G. Water Protection Fund.

30 All permit fees, monetary charges, fines, and penalties assessed, collected or received
31 by GEPA pursuant to this regulation and other regulations promulgated under the Water
32 Pollution Control Act, as well as contributions and assets made for the purpose of improving

1 water quality or preventing water pollution shall be deposited into the Water Protection Fund.
2 The Water Protection Fund shall be established as separate and apart from any other funds of
3 the government of Guam, and shall be administered by the Administrator. Independent
4 records and accounts shall be maintained in connection therewith. The funds shall be used for
5 the administration and implementation and enforcement of the Water Pollution Control Act
6 and regulations promulgated from said Act, for educational programs and grants for research
7 and development, advertisement promotions, and inspections of facilities to prevent or
8 minimize erosion that contributes to pollution of the waters.

9 **Section 10109. Permit Expiration.**

10 A. Grading, clearing and grubbing and stockpiling permits.

11 All grading, clearing and grubbing or stockpiling permits shall expire and
12 become null and void under the following circumstances:

- 13 1. If permitted work is not started within one hundred eighty(180) calendar
14 days after the date of issuance of the permit; or
- 15 2. If work is suspended or abandoned any time after the work is commenced
16 for a minimum period of sixty (60) days; or
- 17 3. If work is continued without interruption for one (1) year, beginning with
18 the date of issuance of the permit, or is completed within the time frame provided in
19 the approved permit application, whichever comes first.

20 B. Stockpiling permits.

21 Every stockpiling permit shall expire and become null and void one (1) year
22 after the date of issuance. Prior to the expiration of the stockpile permit, all stockpiled
23 material temporarily stored on the premises shall be removed from the premises or
24 used on the premises as fill material under a grading permit for fill.

25 C. Permit expiration.

26 Once a permit has expired, the owner/applicant shall pay the required fees and
27 obtain a new permit pursuant to these regulations, before beginning new work. If the
28 owner begins work without obtaining a new permit, the owner shall pay the necessary
29 penalty fees pursuant to these regulations.

30 **Section 10110. Stop Work Order.**

31 A. Unacceptable conditions.

32 Whenever the Administrator determines that any permitted clearing &

1 grubbing, grading, or stockpiling is or may become unstable or dangerous, endangers
2 property, adversely affects the safety, use, or stability of a public way or drainage
3 channel, or results in a violation of the Guam Water Quality Standards, the owner of
4 the property, or other person or agent in control of the property, on receipt of notice
5 in writing from the Administrator, shall abate the danger, implement necessary
6 corrective measures, and shall conform with the requirements of these regulations. The
7 Administrator, or his authorized representative, shall have the authority to enter the
8 property and investigate, and enforce the provisions of this Section. A hearing will be
9 held as required under 10 GCA Section 47109.

10 B. Stop work order procedures.

11 If the Administrator determines that the work must stop due to unstable or
12 dangerous conditions, the Administrator shall issue a stop work order to the
13 owner/contractor of the property and transmit a copy of the order to the Department of
14 Public Works Building Permit Section. Both GEPA and the Department of Public
15 Works shall jointly enforce the stop work order.

16 C. Work occurring without a permit.

17 Notwithstanding the above, if an earth-moving operation is occurring without a valid
18 permit the Agency can order the operation to immediately cease and either require the violator
19 to obtain an after the fact permit, or if the operation cannot be permitted, to have the violator
20 take corrective measures to return the land to its previous condition.

21 **Section 10111. Suspension or revocation of Permit.**

22 A. **Criteria for suspending or revoking permits.** The Administrator shall, in
23 writing, suspend or revoke a permit issued under the provisions of these regulations
24 whenever: the permit has been issued on the basis of incorrect information supplied by
25 the permittee; existing site conditions are found not to be in accordance with the terms
26 and conditions of the permit; it is determined that the permittee has not complied with
27 a provision of any other applicable law, ordinance rule or regulation of Guam; the
28 clearing and grubbing, grading or stockpiling discloses conditions that are
29 objectionable or unsafe; or an immediate danger exists in a downstream/adjacent area.

30 B. **Process for recommencing work.** When a permit has been
31 suspended the permittee may submit details and proposals for compliance with the
32 provisions of these regulations, and any other applicable laws, rules or regulations of

1 Guam. Upon approval of such plans and proposals by the Administrator, the
2 Administrator shall authorize the permittee, in writing, to proceed with the work.

3 **C. Non-compliance.** Non-compliance with the correction notice or stop work
4 order issued for the construction of the sediment and erosion control practices, and/or
5 the construction of storm water management facilities may result in the revocation of
6 the issued permit.

7 **Section 10112. Inspections.**

8 **A. Access to the site.**

9 Each permit issued under these regulations shall be deemed to include the right of the
10 Administrator or his authorized representative to enter at reasonable time upon any
11 property to inspect the clearing and grubbing, grading, or stockpiling operations. Such
12 inspections may take place before, during and after any earth change activity for which a
13 permit has been issued to ensure that control measures are properly installed or performed
14 and maintained at the expense of the applicant.

15 **Section 10113. Enforcement.**

16 **A. Corrective Measures.**

17 If the Agency determines that a person is conducting operations which are
18 causing or are likely to cause pollution, the Administrator may order the owner or
19 operation to take corrective measures needed to prevent or cease the pollution.

20 **B. Stop Work Order.**

21 If the operation is causing or is likely to cause alteration of physical, chemical, or
22 biological properties to the waters of Guam, resulting from sediment, deposition
23 presenting an imminent and substantial danger to the public health, safety or welfare, or
24 the health of animals, fish or aquatic life, to a public water supply or to other reasonable
25 uses of water, the Administrator can issue an order requiring the cessation of relevant
26 activities and implementation of corrective measures. In emergency situation, any
27 order issued by the Administrator shall become final no later than twenty-four (24)
28 hours after the date of the notice and order served.

29 **C. Voluntary compliance.**

30 Nothing in these regulations shall prevent the Agency from making efforts to obtain
31 voluntary compliance through warning, conference or any other appropriate means.

32 **D. Permit violations.**

1 Whenever the Agency has reason to believe that a violation of any Section of these
2 regulations has occurred, it shall cause written notice to be served upon the alleged
3 violator or violators. The notice shall specify the provision of these regulations
4 alleged to be violated, and the facts alleged to constitute a violation thereof, and may
5 include an order that necessary corrective action be taken within a specified time. Any
6 such order shall become final unless, no later than fifteen (15) days after the date of the
7 notice and order served, the person or persons named therein request in writing a
8 hearing before the Agency. Upon such a request, the Agency shall hold a hearing. In
9 lieu of an order, the Agency shall require that the alleged violator or violators appear
10 before the Agency for a time and place specified in the notice and answer the charges
11 complained of, or the Agency may initiate action pursuant to Section 10114 of these
12 regulations.

13 E. Corrective actions from Hearing.

14 If, after a hearing is held pursuant to this Section, the Agency finds that a
15 violation or violations have occurred, it shall affirm or modify the order previously
16 issued or issue an appropriate order or orders for the prevention, abatement, or control
17 of the erosion or sedimentation involved or for the taking of such other corrective
18 action as may be appropriate. If, after hearing on an order contained in a notice, the
19 Agency finds that no violation has occurred or is occurring, it shall rescind the order.
20 Any order issued as part of a notice or after hearing may prescribe the date or dates by
21 which the violation or violations shall cease and may prescribe timetables for
22 necessary action in preventing, abating, or controlling soil erosion.

23 F. Court Appeal.

24 No later than fifteen (15) days after the issuance of the final order of the
25 Agency, an appeal to the Superior Court of Guam may be made against any decision
26 of the Agency by any person who is or may be adversely affected thereby.

27 G. Corporate Liability.

28 (a) A corporation may be found liable or convicted for (1)
29 any violation or offense committed in furtherance of its affairs on the
30 basis of conduct performed, authorized, requested, commanded or
31 recklessly tolerated by (A) the board of directors; (B) a managerial
32 agent acting in the scope of his employment; or (C) any other person

1 for whose conduct the statute defining the violation or offense provides
2 responsibility; (2) failure to perform a duty imposed by law; (3) any
3 violation or offense committed by an agent of the corporation acting in
4 the scope of his employment in furtherance of its affairs.

5 (b) As used in this Section, managerial agent means an agent of
6 the corporation having duties of such responsibility that his conduct
7 may fairly be found to represent the policy of the corporation.

8 H. Emergency Procedures.

9 1. Any other provisions of law to the contrary notwithstanding, if the
10 Administrator finds that a generalized condition of pollution exists, and that it creates
11 an emergency requiring immediate action to protect the intended uses of the water as
12 designated in the Standards of Water Quality for Waters of Guam, or to protect human
13 health or safety, the Administrator, with the concurrence of *I Maga'lahi*, shall order
14 persons causing or contributing to the pollution to reduce or discontinue immediately
15 the pollutants, and such order shall fix a place and time, not later than twenty-four (24)
16 hours thereafter, for a hearing to be held before the Agency. Not more than twenty-
17 four (24) hours after the commencement of such hearing, and without adjournment
18 thereof, the Agency shall affirm, modify or set aside the order of the Administrator.

19 2. In the absence of a generalized condition of pollution of the type referred to
20 in Subsection (1), but if the Administrator finds that pollutants from the operation of
21 one or more polluting sources is causing imminent danger to the intended uses of the
22 water as designated in the Standards of Water Quality for Waters of Guam or is
23 causing imminent danger to human health or safety, he may order the person or
24 persons responsible for the operation or operations in question to reduce or discontinue
25 pollutants immediately, without regard to the provision of Subsection (a) of §47109,
26 Chapter 47, 10 GCA of this Act. In such event, the requirements for hearing and
27 affirmance, modification or setting aside of orders set forth in Subsection (1) of this
28 Section apply.

29 **Section 10114. Penalties, Liability, and Severability Clause.**

30 A. Penalties.

31 (a) **Field citations** - Any person violating the Water Pollution Control Act or
32 these regulations may be served by the officer or inspector with a pollution citation.

1 Water Pollution citation violations shall be settled by amount of no less than One
2 Hundred Fifty Dollars (\$150.00) per violation and not more than Three Thousand
3 Dollars (\$3,000.00) per violation. Cost to take corrective action and community
4 service in lieu of all or a portion of the fine may be accepted by the Board. The
5 Agency will establish a scale amount to assist in determining the penalty amount for
6 settlement. The Board must hold a public hearing to establish and notify the public of
7 the monetary citation fines under this subsection before fines can be imposed. The
8 citation will provide that the violator can request a hearing with the Guam
9 Environmental Protection Agency Board of Directors (the "Board"). The Board can
10 impose a fine up to Three Thousand Dollars (\$3,000.00) per violation noted in the
11 citation. Costs of corrective action and community service in lieu of all or a portion
12 of the fine may be accepted by the Board. Fines imposed and collected under this
13 Section will be deposited into the Water Protection Fund. Judicial review may be had
14 of any Board decision by any party affected adversely by it. If the Board decision is
15 not in accordance with law or not supported by substantial evidence, the Court shall
16 remand the Board to take action according to law or the evidence.

17 (b) **Administrative** - Whenever on the basis of any information available the
18 Administrator reasonably determines that any person has violated the provisions of this
19 rules and regulations or a lawful order, or has violated any permit condition or
20 limitation, the Administrator may assess a civil penalty that may not exceed Ten
21 Thousand Dollars (\$10,000.00) per day per violation that the violation continues,
22 except that the maximum amount of any civil penalty under this Section shall not
23 exceed One Hundred Twenty-five Thousand Dollars (\$125,000.00).

24 (1) Before issuing an order assessing a civil penalty, the Administrator
25 shall give to the person to be assessed such penalty, written notice of the
26 Administrator's proposal to issue such order and the opportunity to request, within
27 thirty (30) days of the date the notice is received by such person, a hearing on the
28 proposed order. Hearing will be conducted as provided under the Administrative
29 Adjudication Law (AAL). In lieu of an order, the Agency may require that alleged
30 violator or violators appear before the Agency for a hearing at a time and place
31 specified in the notice and answer the charges complained of, or the Agency may
32 initiate action pursuant to Section 10114 of this regulations.

1 (a) If, after a hearing held pursuant to the AAL, the Board finds
2 that a violation or violations have occurred, it shall affirm or modify the order
3 previously issued or issue an appropriate order or orders for the prevention,
4 abatement, or control of the pollution or discharges involved or for the taking
5 of such other correction action as may be appropriate.

6 (b) If, after hearing on an order contained in a notice, the Board
7 finds that no violation has occurred or is occurring, it shall rescind the order.

8 (c) Any order issued as part of a notice or after hearing may
9 prescribe the date or dates by which the violation or violations shall cease may
10 prescribe timetables for the necessary action in preventing, abating or
11 controlling the pollution or discharge.

12 (2) In determining the amount of any penalty assessed, the Administrator shall
13 take into account the nature, circumstances, extent and gravity of the violation or
14 violations and with respect to the violator, ability to pay, any prior history of such
15 violations, the degree of culpability, economic benefit or savings if any resulting from
16 the violation, and such other matters as justice may require.

17 (3) If any person fails to pay an assessment of a civil penalty after the order
18 making the assessment has become final, or after a Court in an action has entered a
19 final judgment in favor of the Administrator, the Administrator shall request the
20 Attorney General to bring a civil action to recover the amount assessed. In such an
21 action, the validity, amount, and appropriateness of such penalty shall not be subject to
22 review.

23 (4) The Administrator may settle, modify or release, with or without
24 conditions, any administrative penalty which may be imposed under this Section.

25 B. Liability.

26 The provisions of these regulations shall not be construed to relieve or alleviate
27 the liability of any person for damages resulting from performing, or causing to be
28 performed, by grading, grubbing or stock-piling operation. The government of Guam,
29 GEPA, its officers and employees shall be free from any liability, cost or damage
30 which may accrue from any grading, grubbing or stockpiling or any work connected
31 therewith, authorized by these regulations.

32 C. Severability Clause.

1 If any provisions of these rules, or its application to any person or
2 circumstances, is held invalid, the application of such provision to other persons or
3 circumstances, and the remainder of these rules, shall not be affected thereby.



COPY

MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

June 29, 2000



The Honorable Carl T.C. Gutierrez
I Maga'lahaen Guahan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910

Dear *Maga'lahi* Gutierrez:

Transmitted herewith are Substitute Bill Nos. 281(COR) & 392(LS) which were passed by *I Mina'Bente Singko Na Liheslaturan Guahan* on June 23, 2000.

Sincerely,

JOANNE M.S. BROWN
Senator and Legislative Secretary

Enclosure

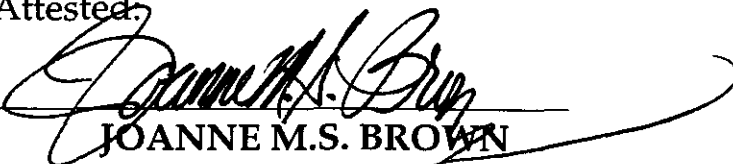
MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
2000 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

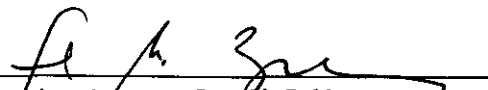
This is to certify that Substitute Bill No. 392 (LS) "AN ACT TO AMEND THE GUAM ENVIRONMENTAL PROTECTION AGENCY GUAM SOIL EROSION AND SEDIMENTATION CONTROL REGULATIONS," was on the 23rd day of June 2000, duly and regularly passed.


ANTONIO R. UNPINGCO
Speaker

Attested:


JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guahan* this 29th day of June, 2000,
at 4:44 o'clock P.M.


Assistant Staff Officer
Maga'lahi's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahen Guahan

Date: _____

Public Law No. _____

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
2000 (SECOND) Regular Session

Bill No. 392 (LS)

As substituted by the Committee
on Natural Resources.

Introduced by:

J. M.S. Brown
K. S. Moylan
C. A. Leon Guerrero
F. B. Aguon, Jr.
E. C. Bermudes
A. C. Blaz
E. B. Calvo
M. G. Camacho
Mark Forbes
L. F. Kasperbauer
A. C. Lamorena, V
V. C. Pangelinan
J. C. Salas
S. A. Sanchez, II
A. R. Unpingco

**AN ACT TO AMEND THE GUAM
ENVIRONMENTAL PROTECTION AGENCY GUAM
SOIL EROSION AND SEDIMENTATION CONTROL
REGULATIONS.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** In accordance with the
3 Administrative Adjudication Law, §9303 *et seq.* of Title 5 of the Guam Code
4 Annotated, as amended by Public Law Number 24-27, on December 10, 1997, the
5 Guam Environmental Protection Agency ("GEPA") transmitted on January 25,

1 2000 to *I Liheslaturan Guåhan*, the “Guam Environmental Protection Agency
2 Guam Soil Erosion and Sedimentation Control Regulations,” which were adopted
3 on April 24, 2000. *I Liheslaturan Guåhan* wishes to amend the rules and
4 regulations as proposed by GEPA to further strengthen its implementation.

5 **Section 2. Approval of GEPA Regulations.** *I Liheslaturan Guåhan* hereby
6 approves the GEPA rules and regulations, **Exhibit A**, entitled, “Guam
7 Environmental Protection Agency Guam Soil Erosion and Sedimentation Control
8 Regulations.”

9 **Section 3. Severability.** *If* any provision of this Law or its application
10 to any person or circumstance is found to be invalid or contrary to law, such
11 invalidity shall *not* affect other provisions or applications of this Law which can
12 be given effect without the invalid provisions or application, and to this end the
13 provisions of this Law are severable.

14 **Section 4. Effective Date.** Effective date of this Act shall be on October 1,
15 2000.

EXHIBIT A

GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS

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1 "may" is permissive.

2 3. A word or term not interpreted or defined by this article shall be used with
3 a meaning of common or standard utilization.

4 **Section 10102. Definitions.**

5 A. Meanings of words and terms. The following words and terms, when used in these
6 regulations, shall have the following meanings, unless the context clearly indicates
7 otherwise:

8 1. Accelerated erosion: *The removal of the surface of the land through the*
9 *combined action of man's activities and natural processes at a rate greater than would*
10 *occur because of the natural process alone.*

11 2. Administrator: *The Administrator of the Guam Environmental Protection*
12 *Agency or his authorized representative.*

13 3. Agency: *The Guam Environmental Protection Agency (GEPA).*

14 4. Board: *Board of Directors, Guam Environmental Protection Agency.*

15 5. Building pad: *The compacted land area on which a structure is to be built.*

16 6. Building permit: *The official document issued by the Building Official,*
17 *government of Guam, authorizing specific construction activities.*

18 7. Channel: *A natural stream that conveys water; a ditch excavated for the*
19 *flow of water.*

20 8. Check dam: *A structure used to reduce or prevent excessive erosion by*
21 *reduction of velocities in water courses.*

22 9. Chutes/flumes: *-Channels of concrete or comparable material that are used*
23 *to conduct storm runoff down slopes where concentrated runoff would cause slope*
24 *erosion.*

25 10. Clearing and grading permit: *An official document issued by the*
26 *Building Official, Department of Public Works, government of Guam, authorizing*
27 *specified earth-moving operations. Such a permit requires the approval of the*
28 *Director of Land Management and the Administrator of the Guam Environmental*
29 *Protection Agency, unless otherwise exempted by the prevailing regulations, before its*
30 *issuance by the Building Official.*

31 11. Clearing and grubbing: *The removal of vegetation, including trees,*
32 *timber, shrubbery, and plants, when said vegetation is dislodged or uprooted from the*

1 surface of the ground.

2 12. Compaction: The densification of a fill by mechanical means.

3 13. Crimping: A method used to secure fiber mulches. The operation is
4 performed by a crimping machine which partially punches the mulch into the soil.

5 14. Deflection Structures: Stones, or concrete or wooden groins placed in a
6 river or stream at an angle outward from the shore in a downstream direction to deflect
7 the current away from a critical area of the bank.

8 15. Denuded: Bare; naked; stripped.

9 16. Developer: Any person who is engaged in land development.

10 17. Dissipate: To scatter; disperse; cause to vanish.

11 18. Diversion: To change the accustomed course of all or part of a stream or
12 of sheet runoff.

13 19. Diversion dike: A temporary ridge of soil constructed at the top of a cut or
14 fill slope to divert overland flow from small area away from unstabilized slopes.

15 20. Diversion ditch: A ditch constructed to channel stream or sheet runoff into
16 desired directions, and may also be referred to as Interceptor Channel.

17 21. Diversion terrace: A channel or dike constructed up slope of an area for
18 the purpose of diverting storm water runoff.

19 22. Earth material: Any rock, coral, sand, gravel, natural soil or fill /or any
20 combination thereof.

21 23. Earth-moving operations: Human caused alterations to the existing
22 topography. Any construction or other activity which disturbs the surface of the land
23 including, but not limited to, clearing, grading, excavation, embankment, construction,
24 and development, subdivision development, mineral extraction, sand mining, and the
25 moving, depositing or storing of soil, rock or earth.

26 24. Embankment: A placement of soil, rock, or other material by man.

27 25. Engineer: A person duly registered as a professional civil and/or structural
28 engineer on Guam.

29 26. Engineer's Soils Report: A report on soils conditions prepared by a
30 professional engineer qualified in the practice of civil and/or structural engineering.

31 27. Environmental Impact Statement: A comprehensive and systematic
32 assessment of environmental impacts which would likely result from a human activity

1 or action. Its purpose is to provide, in part, a basis for making decisions which will
2 affect the human condition as well as the purely biological or natural conditions of our
3 environment. It should provide a reasonable set of alternatives and a preferred option
4 which appropriately balances various environmental concerns, including financial,
5 social or cultural concerns. The assessment should rely on proven assessment methods
6 both scientific and political.

7 28. Environmental Protection Plan: A document describing, for a proposed
8 development, the methods/equipment selected for use, expected environmental
9 problems during and after construction, and methods and equipment chosen to avoid,
10 mitigate or control potential adverse effects on the environment.

11 29. Erosion: (1) The wearing away of the land surface by water, wind, or
12 other geological agents. (2) Detachment and movement of soil or rock fragments by
13 water, wind or gravity.

14 30. Erosion check: A slit trench filled with porous matter that is oriented
15 perpendicular to the direction of flow in a ditch or swale to prevent the formation of
16 rills and gullies.

17 31. Erosion and sediment control: The control of solid material, both mineral
18 and organic, during an earth-moving operation, intended to prevent its transport out of
19 the operation area by means of air, water, or gravity.

20 32. Excavating: Lowering the existing ground elevation by earth-moving
21 operations.

22 33. Excavation or cut: A cavity formed by digging, cutting, quarrying,
23 uncovering, displacing or relocating soil or rock.

24 34. Existing grade: The grade prior to grading.

25 35. Fill: A placement of soil, rock, or other material by man to raise the
26 existing ground elevation.

27 36. Finish grade: The final grade of the site which conforms to the approved
28 plan.

29 37. Grading: Establishing a topographical profile by earth-moving operations
30 involving cuts and fills or excavation or other earth work activities.

31 38. House pad: The compacted land area on which a dwelling structure is to
32 be built.

1 39. Interceptor channel: A channel or dike constructed across a slope for the
2 purpose of intercepting storm water, reducing the velocity of flow, and diverting it to
3 outlets where it can be disposed.

4 40. Interceptor dike: A temporary ridge of compacted soil across a graded
5 right-of-way that is not subject to vehicular traffic, designed to intercept and divert
6 storm runoff to temporary outlets where it can be disposed of with minimal erosion.

7 41. Intermittent stream: A stream or portion of a stream that flows only in
8 direct response to precipitation and receives little or no water from springs other
9 sources.

10 42. Jute Netting: A heavy woven jute mesh laid directly over seedbeds to
11 minimize soil erosion in critical areas until vegetation can become firmly established.
12 Due to its thick fibrous composition, it also functions as a mulch to conserve soil
13 moisture, insulate against solar insolation, dissipate energy from falling raindrops and
14 reduce erosion caused by overland flow.

15 43. Key: A designed compacted fill placed in an earthen trench excavated
16 beneath the toe of a proposed fill slope.

17 44. Land developer: Any person who is engaged in land development.

18 45. Land development: The constructing, installing, placing, planting, or
19 building of surface structures, utility lines, shopping centers and malls, golf courses,
20 apartment complexes, schools, roads, highways, parking areas, or any other similar
21 activity.

22 46. Level spreader: An outlet constructed at zero grade across a slope to
23 collect concentrated runoff and covert it into sheet flow with non-erosive velocities
24 onto areas stabilized by existing vegetation.

25 47. Mulch: A natural or artificial layer of plant residue (fiber mulches) other
26 materials, such as sand or paper, on the soil surface.

27 48. Mulch blanket: Blanket type materials used in the establishment of
28 vegetation on swales, ditches and steep slopes where fiber mulch products do not
29 provide sufficient levels of protection during germination and early growth.

30 49. Netting: A method of securing fiber mulches through the use of jute,
31 plastic, paper or fiberglass nets on steep exposed slopes where crimping is not possible
32 and tacking will not perform satisfactorily.

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50. Outcrop: To come to, or be exposed on the surface.

51. Permeability: The property of a porous material which permits the passage or seepage of fluids, such as water for example, or air through its interconnection voids.

52. Permeable: Having a texture through which water can move.

53. Permit: An official document or certificate issued by the Building Official, government of Guam, authorizing the performance of a specified activity.

54. Permittee: The recipient of an approved permit issued by the Building Official, government of Guam.

55. Person: Any individual, partnership, firm, association, municipality, public or private corporation, subdivision or agency of the island of Guam or the Federal Government, trust, estate or any other legal entity.

56. pH: A numerical measure of the acidity or hydrogen ion activity of a soil. (The neutral point is pH = 7.0. All pH values below 7.0 are acid and all above 7.0 are alkaline).

57. Right-of-way: Right of passage over another person's land; a route that is lawful to use; a strip of land acquired for transport or utility construction.

58. Riprap: Broken rock, cobbles or boulders placed on earth surfaces such as the face of a dam or the bank of a stream, for protection against the action of water or waves; also applied to brush or pole mattresses, or brush and stone, or other similar materials used for soil erosion control.

59. Rough grade: The stage at which the grade approximately conforms to the approved plan.

60. Runoff: Water from rain or irrigation that flows over the ground to surface, marine or ground waters. It can collect pollutants from air or land and carry them to the receiving waters. Also, that part of the precipitation which runs off the surface of a drainage area and reaches a stream, body of water, drain or sewer.

61. Sandbag sediment barrier: Temporary barriers or diversions that are constructed of sandbags.

62. Sectional down drain: A prefabricated sectional conduit of half-round, bituminized fiber pipe or other material used to conduct storm runoff from one elevation to another without erosion of slope.

- 1 63. Sedimentation: The depositing of sediments.
- 2 64. *Sediment retention basin*: A temporary dam or basin, or a combination of
3 both, that will trap and store sediment produced on exposed areas and delivered to the
4 structure by storm runoff.
- 5 65. Sediments: Mineral or organic solid materials that settle to the bottom of
6 water.
- 7 66. Site: The spacial location, under the same ownership, of an actual or
8 planned structure or structures, or earth-moving activity.
- 9 67. Slope: An inclined ground surface, the inclination of which is expressed
10 as a ratio of horizontal distance to vertical distance.
- 11 68. Soil: The unconsolidated mineral and organic material found on the
12 earth's upper layer, that may be dug or plowed and in which plants can grow.
- 13 69. Soil engineering: The application of the principles of soil mechanics in
14 the investigation, evaluation and design of civil works involving the use of earth
15 materials, and the inspection and/or testing of the construction thereof.
- 16 70. Soil erodibility factor (k): A measure of the susceptibility of soil particles
17 to detachment and transport by rainfall and runoff.
- 18 71. Soil slopes: All denuded cut, fill or natural soil constituted slopes.
- 19 72. Stabilization: The proper placing, grading and/or covering of soil, rock or
20 earth to insure its resistance to erosion, sliding, or other movements.
- 21 73. Stockpiling: Temporary open storage of earth materials upon any premises
22 where a grading permit has been issued for the purpose of using the materials at some
23 other premises at a future time.
- 24 74. Storm water management: The practice of using detention measure to
25 reduce the impact of minor storms which cause accelerated erosion of stream channels
26 and drainage ways (not to be confused with control of flood flows).
- 27 75. Storm water runoff: Rain that is not absorbed when it comes in contact
28 with the soil and thus runs down hill into waters of Guam. This runoff may carry soil
29 with it.
- 30 76. Strip planting: The planting of strips of wet soil tolerant, high erosion
31 resistant vegetation in the critical area near the waterline of a major waterway, and the
32 planting of conventional robust rooted grasses and legumes above the critical zone.

1 77. Subdivision: The division, re-division or change of lot lines of a lot, tract,
2 or parcel of land for the purpose of leasing, transferring ownership, or development,
3 either immediately or in the future.

4 78. Tacking: A method of securing mulches by the application of an asphalt
5 or chemical binder which binds the individual fibers together to form a resistant
6 blanket.

7 79. Temporary stabilization: Protecting soil from excessive erosion for a
8 short period of time. Usually, temporary stabilization is designed to last for less than
9 one year.

10 80. Terrace: A relatively level step constructed in the face of a grade slope
11 surface for drainage and maintenance purposes.

12 81. Territory: The Island of Guam, United States of America.

13 82. Tetrahedron: Solid figure with four (4) triangular surfaces.

14 83. Uniform Building Code (UBC): The most recent edition of minimum
15 standards to safeguard life or limb, health, property and public welfare by regulating
16 and controlling the design, construction, quality of materials, use and occupancy,
17 location, and maintenance of all buildings and structures within Guam, as published by
18 the International Conference of Building Officials.

19 84. Waters of Guam: All shore waters streams, lakes, wells, springs, irrigation
20 systems, wetlands, sinkholes, marshes, swamps, watercourses, waterways, drainage
21 systems and other bodies of water, surface and underground, natural or artificial,
22 publicly or privately owned, on or surrounding Guam.

23 85. Watershed: For any river, stream or other water body, the drainage area
24 that contributes water to that water body.

25 86. Watershed divide: The line that follows the ridges or summits forming the
26 exterior boundary of a drainage basin and separates one drainage basin from another.

27 87. Waterway: A natural course or constructed channel for the flow of water.

28 **Section 10103. Permit Issuance and Denials.**

29 **A. Permits Required.**

30 1. Unless exempted, no person shall commence or perform any grading,
31 clearing, grubbing, embankment, filling, excavation or other earth-moving activity
32 without a grading permit;

1 2. Unless exempted, no person shall commence or perform any stockpiling
2 without a stockpiling permit.

3 B. Permit Application Process. An applicant shall obtain the required application from
4 the Building Permit Section, Department of Public Works located at the One-Stop Permit
5 Center, and shall complete and submit the application to the One-Stop Permit Center for
6 review and approval of all concerned agencies, including the Guam Environmental Protection
7 Agency.

8 C. Permit Application Contents.

9 1. A description of the proposed activity, including its purpose, proof of land
10 ownership (title, deed or authorized letter) and other pertinent information as may be
11 required by the Administrator.

12 2. A vicinity map or plan of the site indicating:

13 a. Site information. The location, including names and
14 locations of streets, roadways, and right-of-ways; property line locations,
15 dimensions and azimuths, easements and setbacks of property; the location of
16 any utility and utility lines, buildings, structures and improvements on or
17 within 100 feet of the site; prominent visible rock out-cropping; elevations,
18 dimensions, location, extent and slopes of all proposed earth-moving
19 activities shown by contours and/or other means; the area in square feet of the
20 land to be affected; and the quantities of excavation and fill involved.

21 b. Water course information. Locations, dimensions and flow of
22 springs, rivers, wetlands, wells and streams; natural drainage depressions,
23 basins and sinks; flood plains on the project site and downstream locations
24 which will undergo changes due to the proposed earth-moving operations; and
25 existing and proposed water quality monitoring stations located on or nearby
26 the project site.

27 c. Vegetation information. Location and type of existing trees with a
28 diameter of 12 inches and greater.

29 3. Required maps will be prepared and signed by a licensed land surveyor.
30 Grading plans and specifications will be prepared and signed by an engineer.
31 Required maps should conform to the latest Zoning Code of Guam's Land Use Plan
32 and subdivision law. The scale shall be no smaller than 1 inch = 50 feet or 1 inch = 5

1 meters.

2 4. An application for a stockpiling permit shall include: a plot plan showing
3 the property boundaries; easements, setbacks, and location of the proposed stockpiles;
4 quantities; height of stockpile; the kind/source of the material to be stockpiled;
5 expected life of the stockpile, and any other information required by the Administrator
6 to control dust, drainage or sedimentation problems. Where stockpiling is for the
7 purpose of surcharging to stabilize or consolidate an area, the permittee shall submit an
8 engineer's soil report which shall include data on the effect such surcharging will have
9 on adjacent buildings or structures.

10 5. Required Plans.

11 a. Erosion and Sediment Control Plan; This plan is required for
12 clearing, grading, grubbing, embankment or filling, excavation or other earth-
13 moving operations not otherwise exempted by these regulations.

14 b. Storm Water Runoff Drainage System Plan. This plan, in addition
15 to the Erosion and Sediment Control Plan, is required when the area to be
16 graded is more than five thousand (5,000) square feet or a proposed cut or fill
17 is greater than five (5) feet in height.

18 c. Both the Erosion and Sediment Control and Storm Water Runoff
19 Drainage Systems Plans shall:

20 i. be prepared and signed by an engineer in accordance with
21 these regulations, and the best management practices (BMP) guidance
22 manual or other application of BMPs; and

23 ii. show the method to be used for controlling erosion and
24 disposal of storm water runoff prior to and post construction, including
25 drainage devices such as terraces, berms, ditches culverts, subsurface
26 drains, sedimentation basins, and the estimated runoff quantities of the
27 areas served by each drain and drainage structure.

28 d. Environmental Protection Plan will be required depending on
29 the intensity and scope of the project. This plan will describe the methods and
30 equipment to be used on site: expected or anticipated environmental problems
31 during and after construction: and the methods and equipment that may be
32 used to avoid, mitigate or control potential adverse effects on the environment.

1 6. When a proposed cut or fill is greater than five (5) feet or the proposed
2 grading is on land with slopes exceeding five percent (5%), or when any fill is to be
3 placed in a gully, or when the fill material will be a highly plastic clay, the applicant
4 shall submit to the Administrator for the Agency's evaluation and review, an
5 engineer's soils report signed by an engineer and approved by the owner. The soils
6 report shall include data regarding the nature of the distribution and engineering
7 characteristics of existing soils, and the subsurface conditions at the site. It shall
8 recommend the limits for the proposed grading, the fill material to be used, the
9 geotechnical calculations for the cut or fill area, and the manner of placing, including
10 the heights and slopes of cut and fill sections.

11 7. When an activity or project is located within an environmentally sensitive
12 area (e.g.; areas that affect seashore, rivers and streams, wetlands, critical habitats, and
13 aquifers), an Environmental Impact Assessment (EIA) must be submitted, unless the
14 Administrator determines in writing that the activity is exempted from EIA
15 requirements.

16 8. If wetlands exist on the property to be cleared and grubbed, graded or used
17 for stockpiling of earth materials, the wetlands must be identified with both field
18 markings and by mapping on the site and/or grading plan(s). Wetlands cannot be
19 cleared, grubbed, graded or otherwise be used as a stockpiling site without first
20 obtaining both a valid Guam Wetland Development Permit and a U.S. Army Corps of
21 Engineers Section 404 fill or discharge permit.

22 9. The Administrator may require that wetlands, on the property to be cleared,
23 grubbed or used for stockpiling of earth materials, be officially delineated, in whole or
24 in part, when conditions such as slope, soil stability, proximity of work or other
25 performance related conditions warrant an official delineation. Individuals required to
26 delineate wetlands in accordance with this provision shall apply the mapping
27 requirements of the Guam Environmental Protection Agency Wetlands Mapping
28 Policy, revised November 9, 1995.

29 10. Other permits, plans or approvals associated with and issued for the
30 proposed project shall be submitted with the permit application. Activities described
31 in the permit application shall be consistent with these permits, plans or approvals.
32 Such documents include, but are not limited to:

1 a. Any required conditional use seashore clearance, wetland, Section 401
2 WQC, Section 404 permits (CWA), and planned development approvals, height
3 variances, plan review use approvals, or re-zoning under the Guam Zoning
4 Regulations;

5 b. Sub-division approvals, when an application includes the grading of a
6 development that is to be subdivided, pursuant to the Guam Subdivision Rules and
7 Regulations;

8 c. Conditional use approvals from Territorial Land Use Commission, when the
9 area to be graded or excavated will be used as quarry, and extracted materials used
10 to fill a different area or sold as a fill material by the owner.

11 D. Permit Conditions.

12 1. No permit for earth-moving operations will be issued that will cause erosion
13 and sediment loads or cause pollution to the waters of Guam, as defined by the latest
14 Guam Water Pollution Control Act and the Water Quality Standards, unless an
15 Environmental Protection Plan and an Erosion and Sediment Control Plan have been
16 approved by the Agency.

17 2. The Administrator may attach such conditions as may be reasonably
18 necessary to ensure that any grading work is for a use or structure permitted in
19 accordance with zoning requirements, and to prevent creation of a nuisance or hazard
20 to public or private property, health or welfare. Such conditions may include but are
21 not limited to:

22 a. improvements of any existing grading to bring it up to the standards
23 of these regulations;

24 b. requirements for fencing of excavation or fill to minimize hazards;

25 c. requirements for retaining walls or other earth retention structures
26 to prevent loss of, support to, erosion of, and interference with natural
27 drainage patterns on adjacent properties;

28 d. requirements involving clean-up of an area; and

29 e. limitations on the months, days and hours of permitted work.

30 3. The issuance of a grading permit shall constitute an authorization to do
31 only that work which is described in the permit and in the plans and specifications
32 approved by the Administrator.

1 4. Permits issued under these regulations shall not relieve the permittee of the
2 responsibility for securing permits or approvals for work to be done which is regulated
3 by any federal laws or other laws of Guam, or by department, or division of the
4 governing agencies of the government of Guam.

5 5. Permits issued under these regulations shall be consistent with other
6 permits, plans or approvals associated with the proposed project.

7 6. Where any operations are delayed for any reason, a revised work schedule
8 shall be submitted to the Administrator which describes any required modifications to
9 the temporary storm water drainage system and to the Erosion and Sediment Control
10 Plan, and other information the Administrator may require.

11 7. A copy of the permit, plans and specifications for grading, clearing &
12 grubbing, or stockpiling shall be maintained at the job-site during the progress of the
13 work.

14 E. Permit Denials.

15 The Administrator shall deny a clearing and grubbing, grading or stockpiling permit if
16 there is reasonable cause for concern that the work as proposed by the applicant may present a
17 risk or endangerment to public health or the environment. Factors to be considered in
18 determining probability of dangerous conditions include, but are not limited to:

- 19 1. possible saturation of ground by rain;
- 20 2. dangerous geological conditions or flood hazards;
- 21 3. undesirable surface water runoff; and
- 22 4. subsurface conditions such as the stratification and faulting of rock, nature
23 and type of soil or rock.

24 **Section 10104. Erosion and Sediment Control Plans.**

25 A. General Requirements.

26 1. All earth-moving activities on Guam shall be conducted in such a way as to
27 prevent accelerated erosion and the resulting sedimentation. To accomplish this all
28 persons engaged in earth-moving activities shall design, implement, and maintain
29 erosion and sediment control measures which effectively prevent accelerated erosion
30 and sedimentation. These erosion and sediment measures must be as set forth in
31 Erosion and Sediment Control Plans submitted, reviewed and approved by GEPA.

32 2. All clearing, grading, embankment or filling, excavating and other earth-

1 moving operations shall proceed only in accordance with an Erosion and Sediment
2 Control Plan, prepared in accordance with the requirements set forth in these
3 regulations, and duly approved by the Agency.

4 3. An approved Erosion and Sediment Control Plan does not abrogate a
5 permittee's responsibility to comply with all other applicable Guam and federal laws
6 and regulations.

7 **B. Agency approval of Erosion and Sediment Control Plans.**

8 1. Four (4) copies of a proposed Erosion and Sediment Control Plan shall be
9 submitted to the Agency with the permit application for earth-moving operations.

10 2. The Agency shall have thirty (30) working days to approve or disapprove of
11 such plan.

12 **C. Compliance.**

13 1. All clearing, grading, embankment or filling, excavating and other earth-
14 moving operations, except those otherwise exempted from these regulations by the
15 Administrator, must proceed in accordance with a duly approved Erosion and
16 Sediment Control Plan.

17 2. Earth-moving operations in progress, other than quarrying, shall comply
18 with these regulations within fifteen (15) calendar days of the effective date of these
19 regulations. Quarrying operations shall comply with these regulations within thirty
20 (30) calendar days of the effective date of these regulations.

21 **Section 10105. Erosion and Sediment Control Plans and Measures.**

22 **A. General policies for Erosion and Sediment Control.**

23 1. All earth-moving operations on Guam shall be conducted in a manner that
24 prevents accelerated land erosion, transportation of sediment to and along highways, or
25 siltation of rivers, estuaries and marine waters.

26 2. The area affected by earth-moving operations shall be kept to a minimum by
27 either selective clearing, increment phases of development or other effective means.
28 The Erosion and Sediment Control Plan must contain measures that ensure that each
29 phase of any proposed large development affects less than twenty (20) acres.

30 3. All earth-moving operations shall be scheduled during periods of expected
31 low rainfall.

32 4. Any earth-moving operations authorized under these regulations shall be

1 performed so as not to violate applicable provisions of the latest Guam Water Quality
2 Standards.

3 5. No person shall perform any earth-moving operation so as to cause falling
4 rocks, soil or debris in any form to fall, slide or flow onto adjoining properties or
5 waters of Guam.

6 6. All work areas shall be maintained so as to minimize dust which may cause
7 a nuisance or hazard to others, and in conformance with the Guam Air Pollution
8 Control Standards and regulations.

9 7. Where construction equipment will make frequent crossings of a natural
10 drainage course, plans shall provide for temporary culverts or bridge structures to be
11 installed. The required clearances from concerned agencies shall be obtained before
12 any construction of temporary crossing access begins.

13 8. The erosion and sediment control measures set forth in this Section are
14 required, unless the Erosion and Sediment Control Plan shows that the alteration of
15 these measures and facilities or inclusion of other measures and facilities will better
16 prevent accelerated erosion and sedimentation.

17 **B. Required contents of Erosion and Sediment Control Plans.**

18 1. *Description of the Project.*

19 The plan shall include a detailed narrative description, with photographs and
20 construction drawings, of the proposed project.

21 2. *Project Site Plan.*

22 a. The necessary information is that which is required in Section
23 10103.C. Permit Application Contents. Plan sheet size shall not be smaller
24 that eighteen (18) inches x twenty-four (24) inches and not larger than thirty
25 (30) inches x forty-two (42) inches. Plan sheet sizes shall not vary.

26 b. Soil description including: soil classification by USDA Natural
27 Resources Conservation Service "Soil Taxonomy Classification System"; soil
28 erodibility factor; soil permeability and percolation rates; type and extent of
29 out-croppings; depth of soil; capability for establishing vegetation; and
30 coefficient of runoff.

31 c. Evaluation of subsurface information. Subsurface investigations
32 shall consist of drilling, excavations, or observations of naturally exposed soil

1 and bedrock exposures at sufficient intervals and depths to indicate the type of
2 material or condition to be encountered at final grading. The person or firm
3 making the investigation shall submit a written report of their findings and
4 recommendations. This information is required where the stability will be
5 lessened by proposed grading or filling, where any other weaknesses are
6 found, or where any of the following conditions are discovered or proposed:

- 7 i. At locations where a fill slope is to be placed above or a cut
8 slope;
- 9 ii. At proposed cuts exceeding fifteen (15) feet in height
10 unless in competent rock as determined by an engineer;
- 11 iii. At locations of proposed fills exceeding fifteen (15) feet in
12 height;
- 13 iv. Where sides of hill fills are to be placed on existing slopes
14 steeper than fifteen percent (15%);
- 15 v. Wherever groundwater from either the grading project or
16 adjoining properties is likely to reduce stability;
- 17 vi. At zones of trapped water or high water table; or
- 18 vii. Where the topography is indicative of landslides, as
19 determined by an engineer.

20 d. Site Assessment. Consider the detrimental effects of construction of
21 the site as it pertains to: erosion and loss of sediments; slope stability; water
22 quality; plant communities; wildlife and aquatic life; and condition of marine
23 waters and reef flats which will receive storm water runoff, either directly or
24 indirectly, from the project site.

25 3. *Grading Plan.*

26 It is the purpose of this paragraph to ensure that minimum grading is performed
27 and that natural contours and topography will be retained wherever feasible.

28 a. Grading shall be designed and implemented so as to blend in with
29 the surrounding area.

30 b. All grading plans and specifications shall show, using contours,
31 cross sections, spot elevations or other means, the condition of the land before
32 and after grading.

1 c. The grading plan shall provide information regarding the location
2 and source of imported fill material, and the location for disposal of excess
3 excavation material.

4 d. Where a grading activity is to occur in increments or phases, the
5 plan shall also include the plan for future site development and the proposed
6 grading of future increments.

7 4. Construction Schedule.

8 a. Construction increments shall be described in detail and identified
9 on the project plan.

10 b. The schedule will indicate completion dates for each construction
11 increment and the construction sequence of erosion and sediment control
12 measures. Each increment phase of work shall have an approved
13 Environmental Protection Plan and Soil Erosion and Sedimentation Control
14 Plan from the Agency.

15 c. The Agency shall check the adequacy of the schedule with respect to
16 short term and long term erosion anticipated on the project site. The
17 construction schedule shall be checked to ensure prompt establishment of
18 protective vegetation with full recognition of climatic and other factors that
19 influence its establishment.

20 5. Storm water Drainage System and Control of Site Water Runoff.

21 a. The proposed temporary and permanent, natural and man-made,
22 storm water drainage systems shall be depicted in detail in the drawing plans,
23 including, but not limited to, dimensions, alignments and elevations of all
24 structures as well as the anticipated volume and velocity of the storm water.
25 Design calculations for the drainage systems and siltation basins, best
26 management practices, and other pertinent structures, shall be submitted. The
27 following shall also be provided:

28 i. The runoff to be expected during and after the proposed
29 development;

30 ii. The size of drainage areas above cuts and slopes;

31 iii. Estimate soil loss volume;

32 iv. The methods for trapping sediments, reducing erosion of

1 drainage ways, and for controlling the collection and discharge of
2 storm water during and after construction.

3 v. The method and schedule of construction of waterway
4 crossings. Sediment control structures for natural waterways shall be
5 scheduled for installation prior to any earth-moving operations.

6 b. Adequate provisions shall be made to prevent surface waters from
7 damaging the cut face of an excavation or the sloped surfaces of a fill. Positive
8 drainage shall be provided to prevent the accumulation or retention of surface
9 water in pits, gullies, holes or similar depressions. All drainage facilities shall
10 be designed to carry surface water runoff to a storm drain that will discharge to
11 a catchment facility within the project site. The Administrator may require
12 such drainage structures and pipes to be constructed or installed, which in his
13 opinion, are necessary to prevent erosion damage and to adequately carry off
14 surface waters. The flow of any existing and known natural underground
15 drainage shall not be impeded or changed so as to cause damage to adjoining
16 property.

17 c. During construction, all storm sewer inlets shall be protected with
18 silt traps.

19 d. If a project to be developed is covered under the Federal Storm
20 Water Regulations (40 CFR Parts 122 & 123), a notice of intent to discharge
21 storm water to surface and marine waters of Guam must be submitted to US
22 Environmental Protection Agency and a copy furnished GEPA. An NPDES
23 permit which authorizes the discharge must also be secured.

24 e. Structural measures such as berms, dikes, traps, basins, shall be
25 installed prior to any other grading, clearing, or disturbance of the existing
26 surface of the site.

27 f. Diversion Terraces.

28 i. Diversion terraces shall be constructed up-grade of a project
29 area to convey runoff around the project area. For temporary
30 diversions, the channel shall have capacity to convey 1.6 cubic feet per
31 second per acre of land tributary to it. For permanent diversions, the
32 channel shall have capacity to convey 2.75 cubic feet per second per

1 acre of land tributary to it.

2 ii. *Diversion terraces shall be grassed or lined with erosion*
3 *resistant material to prevent accelerated erosion within the channel.*

4 iii. *Outlet structures shall be designed to maintain a discharge*
5 *velocity of less than 2.0 feet per second and all areas affected by the*
6 *construction activity shall be stabilized before the outlet structures*
7 *shall be used.*

8 g. **Interceptor Channels.**

9 i. *Interceptor channels may be used within the project area to*
10 *reduce the velocity of the flow and thus prevent accelerated erosion.*

11 ii. *Water collected by interceptor channels shall be conveyed*
12 *to sedimentation basins or to vegetated areas but not directly to*
13 *streams.*

14 iii. *Outlets to vegetated areas shall be designed to maintain an*
15 *outlet velocity of less than 2.0 feet per second. Outlet structures shall*
16 *be screened to lower the amount of suspended solids in the discharge*
17 *water.*

18 h. **Channels of Conveyance.**

19 All channels used to convey water through a project area shall be
20 designed to have a velocity of less than 1.5 feet per second. Where this is not
21 possible, the channel shall be grassed or lined with erosion resistant material.

22 i. **Sedimentation Basins.**

23 i. *The basin shall be cleaned when the storage capacity of the basin is*
24 *reduced to five thousand (5,000) cubic feet per acre of project area tributary to*
25 *the basin.*

26 ii. *Water from a sedimentation basin shall not be discharged to a*
27 *natural waterway. Designs of sediment basins must provide for enough*
28 *storage to give time for runoff water to be leached into the ground.*

29 iii. *Outlets of sedimentation basins shall be screened and designed in a*
30 *manner which does not discourage regular maintenance.*

31 iv. *Sedimentation basins shall be structurally sound and properly*
32 *secured to protect them from unauthorized acts of third party activities.*

1 6. Cut and fill.

2 a. The conditions of the following subsections may be modified by the
3 Administrator based on a supportive engineer's soils report, and receipt of
4 approvals from the owner and concerned agencies:

5 i. Height. Where a cut or fill is greater than fifteen (15) feet in height,
6 terraces, or benches shall be constructed at vertical intervals of fifteen (15) feet
7 except where only one bench is required, the single bench shall be constructed
8 at the midpoint. The minimum width of such terraces or benches shall be at
9 least eighteen (18) feet and provided with drainage provisions to control
10 erosion on the slope and face and bench surface.

11 ii. Cut Slopes. Under the following conditions, no cut may be steeper
12 in slope than the ratio of its horizontal to its vertical distance as shown below:

13 (a) 2 horizontal to 1 vertical in unweathered rock or mudrock;

14 (b) 2 horizontal to 1 vertical in decomposed rock; or

15 (c) 2 horizontal to 1 vertical in soils of low plasticity for cuts of
16 any height in highly plastic soils. The engineer's soils report shall
17 include the recommended slope design, and design calculations
18 necessary to demonstrate slope stability.

19 iii. Fill slopes shall not be steeper than the ratio 3 horizontal to 1
20 vertical except that fill using highly plastic clays shall have slopes specifically
21 recommended in the engineer's soils report signed by a professional civil
22 engineer, and approved by the owner. The engineer's soils report shall include
23 the recommended slope design, and design calculations necessary to
24 demonstrate slope stability.

25 b. Fill material shall be selected to meet the requirements and conditions of the
26 particular fill for which it is to be used. The fill material shall not contain vegetation
27 or organic matter. Where rocks, concrete, or similar materials of greater than eight (8)
28 inches in diameter are incorporated into the fill, they shall be placed in accordance
29 with the recommendation of the professional civil engineer.

30 c. Before placing fill or stockpiling, the natural ground surface shall be
31 prepared by removing the vegetation and, shall be notched by a series of benches
32 and/or subsurface drains installed.

1 d. No fill shall be placed over any waters of Guam (e.g.; spring, marsh,
2 wetlands), refuse dumps, or soft, soggy or springy foundations. The plan must
3 highlight possible wetland characteristics on the site and adjacent properties.

4 e. Fill materials shall be spread and compacted in a series of eight (8) inch to
5 ten (10) inch layers, unless otherwise recommended by the professional civil engineer.
6 For slopes, the fill shall be compacted to ninety five percent (95%) maximum density
7 as determined by the most recent ASTM Soil Compaction Test D1557. The engineer's
8 soils report shall include the recommended slope design, and design calculations
9 necessary to demonstrate slope stability.

10 f. Distance from property line. The following requirements may be modified
11 by the Administrator when cuts or fills are supported by retaining walls or when the
12 permittee submits an engineer's soils report stating that the soil conditions will permit
13 a lesser horizontal distance without causing damage or danger to the adjoining
14 property. The engineer's soils report shall include the recommended slope design, and
15 design calculations necessary to demonstrate slope stability. The horizontal distance
16 from the top of a cut slope or the bottom of a fill slope to the adjoining property line
17 shall not be less than as follows:

18 Heights of cut or fill	Distance from property line (in feet)
19 Zero feet to 4 feet	4
20 More than 4 feet to 10 feet	6
21 More than 10 feet to 15 feet	8
22 More than 15 feet	10

23 7. Maintenance Procedures.

24 a. A maintenance program for the erosion and sedimentation control structures
25 and facilities shall be established. The program shall include, but not be limited to, a
26 schedule for inspecting the facilities and for removing and disposing of sediment
27 materials from the control structures, or project area, and specific duties of the
28 designated maintenance personnel.

29 b. If the original owner has sold the property, the subsequent owner shall be
30 responsible for maintaining the permanent measures that have been installed on the
31 property.

32 8. Disposal of Spoil Materials.

1 The information concerning the disposal of spoil materials shall include the
2 following: type of spoil material; location of disposal area; method for processing and
3 disposing of spoil materials; procedures for preventing soil loss to adjacent
4 watercourses; and, if intending to burn spoil materials, burning procedures for
5 combustible spoil material. Burning requires a permit from the Guam Fire
6 Department.

7 9. Stockpiles.

8 The following information shall be provided: source of stockpile material;
9 location, slope, and height of stockpile; duration that the material is to be stockpiled;
10 provisions to prevent erosion and sediment loss from rain and wind action; plan for
11 removing stockpiles at project completion.

12 10. Stabilization of Affected Areas.

13 a. Stabilization of slopes, channels, ditches, berms, diversions, silt dams, or
14 any disturbed areas shall begin as soon as possible and no later than thirty (30)
15 calendar days after the final grade or final earth-moving activities has been completed.

16 b. Electric power, and telephone trenches are to be stabilized as soon as
17 possible and no later than thirty (30) days after backfill

18 c. Stabilization of stream banks shall be scheduled during periods of expected
19 low rainfall.

20 d. Where it is not possible to permanently stabilize a disturbed area
21 immediately after the final earth-moving has been completed or where the activity
22 ceases for more than thirty (30) calendar days, interim or temporary stabilization
23 measures shall promptly be implemented and enforced.

24 e. Any disturbed area not paved, sodded or built shall be seeded and mulched
25 with vegetative cover appropriate to the soil type, as recommended by an engineer, or
26 the condition of the area based on soil test analysis done by a laboratory. This
27 condition does not prohibit the use of matting, gabion, armor coating on erodible
28 surfaces or other type of vegetative cover that will minimize erosion.

29 f. All structural sediment control measures are to remain in place until
30 permission for their removal has been obtained from the Agency.

31 11. Protection and Removal of Native Vegetation.

32 a. In order to protect native vegetation from construction impacts, the

1 following information shall be provided: location and description of native vegetation
2 whose root zone will be affected by compaction, fills, trenches, and changes in the
3 groundwater table; measures which will prevent conditions damaging to vegetation;
4 and criteria used to determine removal;

5 b. Whenever feasible, natural vegetation should be retained. If their removal
6 is necessitated, they shall not be stored or deposited along banks of streams, rivers or
7 natural water courses after being uprooted, or displaced from the ground by
8 excavation, clearing or grubbing. Removed vegetation shall be disposed of at a
9 disposal site approved by the Administrator, and removed from the site within a
10 reasonable time, not to exceed one (1) month from date of removal.

11 **12. Establishment of Vegetation.**

12 a. Where the establishment of vegetation is required on slopes of cut and fill,
13 graded areas, and watercourses, etc., the following information shall be provided:

14 i. Location and areas to be vegetated;

15 ii. An indication of whether vegetation is to be temporary or
16 permanent;

17 iii. Type and quantity of seeds or plants;

18 iv. Ground conditions, including: soil surface condition, pH,
19 permeability, size distribution, slope angle, slope length, and aspect, nutrients;

20 v. Type and quantity of mulch;

21 vi. Type and quantity of fertilizer;

22 vii. Method and schedule of seeding, mulching, planting, and
23 fertilizing;

24 viii. Irrigation schedule.

25 b. The plan shall provide for the revisiting of the location every three (3)
26 months to verify that vegetation has been successfully established. If not successful
27 the site must be revegetated until the area is successfully revegetated.

28 **13. Certification.** The Plan shall be stamped and signed an engineer.

29 **Section 10106. Special Requirements.**

30 **A. Protection of adjoining properties.**

31 Any person performing or causing to be performed any excavation or fill shall,
32 at his own expense, provide the necessary means to prevent the movement of earth to

1 the adjoining properties, and to maintain the existing natural grade of adjoining
2 properties.

3 B. Protection of public utilities.

4 Any person performing or causing to be performed any excavation or fill shall
5 be responsible for the maintenance or restoration of street pavements, sidewalks and
6 curbs, and improvements of public utilities which may be affected. Such maintenance
7 shall be in accordance with the requirements of the Department of Public Works,
8 government of Guam agencies and affected public utilities. At cuts fronting any street,
9 a suitable and adequate barrier shall be installed to provide protection to the public.

10 C. Removal of silt or other debris.

11 Any person depositing or causing to be deposited, any silt or debris in ditches,
12 water courses, drainage facilities, and public roadways, shall remove such silt or other
13 debris. In case such person shall fail, neglect or refuse to comply with the provisions
14 of this Section within forty-eight (48) hours after written notice served upon him,
15 either by mail or by personal service, the Administrator may proceed to remove the
16 silt and other debris or to take any other action he deems appropriate. The costs
17 incurred for any action taken by the Administrator shall be payable by such person.

18 D. Safety precautions.

19 At any stage of the grading, grubbing, or stockpiling, if the Administrator finds
20 that further work as authorized by an existing permit is likely to create soil erosion
21 problems or to endanger life, limb or property, he may require safety precautions.
22 These precautions may include but are not limited to: flattening exposed slopes;
23 constructing additional silting or sediment basins, providing drainage facilities or
24 benches; removing rocks, boulders, debris and other dangerous objects which, if
25 dislodged, are likely to cause injury or damage; or constructing fences or other suitable
26 protective barriers.

27 E. Creation of individual building sites.

28 Hillside lots shall be graded in such a manner that any parcels which may be
29 created, including all separate building sites which may be contained within said
30 parcels, can be satisfactorily graded and developed as individual building sites.

31 F. Protection of Sink Holes.

32 Earth-moving operations shall not be performed in sink holes or in such close

1 proximity as to threaten their viability, function or the conveyance of surface water
2 into such features unless specifically authorized by the administrator. In the event a
3 developer proposes to modify or use a sinkhole, an environmental and hydrogeologic
4 assessment must be performed to ensure adverse affects will not result, including but
5 not limited to the displacement of groundwater, interference with well production,
6 significant changes to groundwater recharge, flooding, or the threat or introduction of
7 any pollutant to groundwater, regardless of zone or category.

8 **Section 10107 Project Completion.**

9 **A. Products to be submitted.**

10 1. As-built/graded plan, prepared by an engineer or land surveyor, upon
11 completion of an earth-moving operation covering an area of greater than one (1)
12 acre;

13 2. Soils report, when earth-moving operations involve cuts or fills for which an
14 engineer's soils report is required. The report shall contain:

15 a. A description of materials used in the fill and its moisture content at
16 the time of compaction;

17 b. The procedures used in depositing and compacting the fill;

18 3. A description of the preparation of the original ground surface before
19 making the fill, but not limited to benching and subsurface drainage;

20 4. A plan or tabulation showing the general location and elevation of
21 compaction tests made in the fill together with a tabulation of relative compaction
22 densities obtained at each location, the location of sub-drains, and other pertinent
23 features of the fill necessary for its stability; and

24 5. Certification that the work was done in conformity with these regulations,
25 the approved plans and specifications, and the engineer's soils report.

26 **B. Final inspection and approval.**

27 The permittee or his agent shall notify the Administrator or his representative
28 when the earth-moving operation is ready for final inspection. Final approval shall not
29 be given until all approved work has been completed. Final approval shall be
30 dependent on installation of all drainage structures and their protective devices,
31 establishment of a healthy vegetation growth in conformance with the approved plans
32 and specifications, and submittal of any required reports.

1 C. Fees for additional plan reviews.

2 Additional plan reviews required for any changes, additions or revisions to
3 approved plans are Thirty Dollars (\$30.00) per hour, or the total hourly cost to the
4 jurisdiction, whichever is the greatest. This cost shall include those associated with
5 supervision, overhead, equipment, hourly wages and fringe benefits of the employees
6 involved.

7 D. Clearing and grubbing permits.

8 Before issuing a clearing and grubbing permit clearance, the Administrator shall collect
9 a clearance fee of Twenty Dollars (\$20.00) for clearing & grubbing areas greater than fifteen
10 thousand (15,000) square feet plus Two Dollars (\$2.00) per each additional one thousand
11 (1,000) square feet or fraction thereof. No fee shall be charged for clearing and grubbing less
12 than fifteen thousand (15,000) square feet.

13 E. Stockpiling permits.

14 Before issuing a stockpiling permit clearance, the Administrator shall collect a permit
15 clearance fee of Seven Dollars and fifty cents (\$7.50) for stockpiling in excess of the one
16 hundred (100) cubic yards, plus One Dollar and fifty cents (\$1.50) for each additional one
17 hundred (100) cubic yards or fraction thereof.

18 F. Work occurring without a permit.

19 Where work for which a permit is required by these regulations has commenced or has
20 been accomplished without a permit, a permit shall be obtained, and two times the fees
21 specified above shall be assessed, provided that such work complies with or may be made to
22 comply with the requirements of these regulations. If the grading/clearing/stockpiling/
23 grubbing work accomplished or commenced cannot be made to comply with the provisions of
24 these regulations, the person or persons responsible for the initiation or accomplishment of
25 such grading work shall restore the land to its original condition and shall obtain a certificate
26 of completion thereof from the Administrator. Notwithstanding the above, the person or
27 persons responsible for such grading/clearing/grubbing/stockpiling shall be deemed to have
28 violated the provisions of these regulations by performing such activity(ies) without a permit.

29 G. Water Protection Fund.

30 All permit fees, monetary charges, fines, and penalties assessed, collected or received
31 by GEPA pursuant to this regulation and other regulations promulgated under the Water
32 Pollution Control Act, as well as contributions and assets made for the purpose of improving

1 grubbing, grading, or stockpiling is or may become unstable or dangerous, endangers
2 property, adversely affects the safety, use, or stability of a public way or drainage
3 channel, or results in a violation of the Guam Water Quality Standards, the owner of
4 the property, or other person or agent in control of the property, on receipt of notice
5 in writing from the Administrator, shall abate the danger, implement necessary
6 corrective measures, and shall conform with the requirements of these regulations. The
7 Administrator, or his authorized representative, shall have the authority to enter the
8 property and investigate, and enforce the provisions of this Section. A hearing will be
9 held as required under 10 GCA Section 47109.

10 B. Stop work order procedures.

11 If the Administrator determines that the work must stop due to unstable or
12 dangerous conditions, the Administrator shall issue a stop work order to the
13 owner/contractor of the property and transmit a copy of the order to the Department of
14 Public Works Building Permit Section. Both GEPA and the Department of Public
15 Works shall jointly enforce the stop work order.

16 C. Work occurring without a permit.

17 Notwithstanding the above, if an earth-moving operation is occurring without a valid
18 permit the Agency can order the operation to immediately cease and either require the violator
19 to obtain an after the fact permit, or if the operation cannot be permitted, to have the violator
20 take corrective measures to return the land to its previous condition.

21 **Section 10111. Suspension or revocation of Permit.**

22 A. **Criteria for suspending or revoking permits.** The Administrator shall, in
23 writing, suspend or revoke a permit issued under the provisions of these regulations
24 whenever: the permit has been issued on the basis of incorrect information supplied by
25 the permittee; existing site conditions are found not to be in accordance with the terms
26 and conditions of the permit; it is determined that the permittee has not complied with
27 a provision of any other applicable law, ordinance rule or regulation of Guam; the
28 clearing and grubbing, grading or stockpiling discloses conditions that are
29 objectionable or unsafe; or an immediate danger exists in a downstream/adjacent area.

30 B. **Process for recommencing work.** When a permit has been
31 suspended the permittee may submit details and proposals for compliance with the
32 provisions of these regulations, and any other applicable laws, rules or regulations of

1 Guam. Upon approval of such plans and proposals by the Administrator, the
2 Administrator shall authorize the permittee, in writing, to proceed with the work.

3 **C. Non-compliance.** Non-compliance with the correction notice or stop work
4 order issued for the construction of the sediment and erosion control practices, and/or
5 the construction of storm water management facilities may result in the revocation of
6 the issued permit.

7 **Section 10112. Inspections.**

8 A. Access to the site.

9 Each permit issued under these regulations shall be deemed to include the right of the
10 Administrator or his authorized representative to enter at reasonable time upon any
11 property to inspect the clearing and grubbing, grading, or stockpiling operations. Such
12 inspections may take place before, during and after any earth change activity for which a
13 permit has been issued to ensure that control measures are properly installed or performed
14 and maintained at the expense of the applicant.

15 **Section 10113. Enforcement.**

16 A. Corrective Measures.

17 If the Agency determines that a person is conducting operations which are
18 causing or are likely to cause pollution, the Administrator may order the owner or
19 operation to take corrective measures needed to prevent or cease the pollution.

20 B. Stop Work Order.

21 If the operation is causing or is likely to cause alteration of physical, chemical, or
22 biological properties to the waters of Guam, resulting from sediment, deposition
23 presenting an imminent and substantial danger to the public health, safety or welfare, or
24 the health of animals, fish or aquatic life, to a public water supply or to other reasonable
25 uses of water, the Administrator can issue an order requiring the cessation of relevant
26 activities and implementation of corrective measures. In emergency situation, any
27 order issued by the Administrator shall become final no later than twenty-four (24)
28 hours after the date of the notice and order served.

29 C. Voluntary compliance.

30 Nothing in these regulations shall prevent the Agency from making efforts to obtain
31 voluntary compliance through warning, conference or any other appropriate means.

32 D. Permit violations.

1 Whenever the Agency has reason to believe that a violation of any Section of these
2 regulations has occurred, it shall cause written notice to be served upon the alleged
3 violator or violators. The notice shall specify the provision of these regulations
4 alleged to be violated, and the facts alleged to constitute a violation thereof, and may
5 include an order that necessary corrective action be taken within a specified time. Any
6 such order shall become final unless, no later than fifteen (15) days after the date of the
7 notice and order served, the person or persons named therein request in writing a
8 hearing before the Agency. Upon such a request, the Agency shall hold a hearing. In
9 lieu of an order, the Agency shall require that the alleged violator or violators appear
10 before the Agency for a time and place specified in the notice and answer the charges
11 complained of, or the Agency may initiate action pursuant to Section 10114 of these
12 regulations.

13 E. Corrective actions from Hearing.

14 If, after a hearing is held pursuant to this Section, the Agency finds that a
15 violation or violations have occurred, it shall affirm or modify the order previously
16 issued or issue an appropriate order or orders for the prevention, abatement, or control
17 of the erosion or sedimentation involved or for the taking of such other corrective
18 action as may be appropriate. If, after hearing on an order contained in a notice, the
19 Agency finds that no violation has occurred or is occurring, it shall rescind the order.
20 Any order issued as part of a notice or after hearing may prescribe the date or dates by
21 which the violation or violations shall cease and may prescribe timetables for
22 necessary action in preventing, abating, or controlling soil erosion.

23 F. Court Appeal.

24 No later than fifteen (15) days after the issuance of the final order of the
25 Agency, an appeal to the Superior Court of Guam may be made against any decision
26 of the Agency by any person who is or may be adversely affected thereby.

27 G. Corporate Liability.

28 (a) A corporation may be found liable or convicted for (1)
29 any violation or offense committed in furtherance of its affairs on the
30 basis of conduct performed, authorized, requested, commanded or
31 recklessly tolerated by (A) the board of directors; (B) a managerial
32 agent acting in the scope of his employment; or (C) any other person

1 for whose conduct the statute defining the violation or offense provides
2 responsibility; (2) failure to perform a duty imposed by law; (3) any
3 violation or offense committed by an agent of the corporation acting in
4 the scope of his employment in furtherance of its affairs.

5 (b) As used in this Section, managerial agent means an agent of
6 the corporation having duties of such responsibility that his conduct
7 may fairly be found to represent the policy of the corporation.

8 H. Emergency Procedures.

9 1. Any other provisions of law to the contrary notwithstanding, if the
10 Administrator finds that a generalized condition of pollution exists, and that it creates
11 an emergency requiring immediate action to protect the intended uses of the water as
12 designated in the Standards of Water Quality for Waters of Guam, or to protect human
13 health or safety, the Administrator, with the concurrence of *I Maga'lahi*, shall order
14 persons causing or contributing to the pollution to reduce or discontinue immediately
15 the pollutants, and such order shall fix a place and time, not later than twenty-four (24)
16 hours thereafter, for a hearing to be held before the Agency. Not more than twenty-
17 four (24) hours after the commencement of such hearing, and without adjournment
18 thereof, the Agency shall affirm, modify or set aside the order of the Administrator.

19 2. In the absence of a generalized condition of pollution of the type referred to
20 in Subsection (1), but if the Administrator finds that pollutants from the operation of
21 one or more polluting sources is causing imminent danger to the intended uses of the
22 water as designated in the Standards of Water Quality for Waters of Guam or is
23 causing imminent danger to human health or safety, he may order the person or
24 persons responsible for the operation or operations in question to reduce or discontinue
25 pollutants immediately, without regard to the provision of Subsection (a) of §47109,
26 Chapter 47, 10 GCA of this Act. In such event, the requirements for hearing and
27 affirmance, modification or setting aside of orders set forth in Subsection (1) of this
28 Section apply.

29 **Section 10114. Penalties, Liability, and Severability Clause.**

30 A. Penalties.

31 (a) **Field citations** - Any person violating the Water Pollution Control Act or
32 these regulations may be served by the officer or inspector with a pollution citation.

1 Water Pollution citation violations shall be settled by amount of no less than One
2 Hundred Fifty Dollars (\$150.00) per violation and not more than Three Thousand
3 Dollars (\$3,000.00) per violation. Cost to take corrective action and community
4 service in lieu of all or a portion of the fine may be accepted by the Board. The
5 Agency will establish a scale amount to assist in determining the penalty amount for
6 settlement. The Board must hold a public hearing to establish and notify the public of
7 the monetary citation fines under this subsection before fines can be imposed. The
8 citation will provide that the violator can request a hearing with the Guam
9 Environmental Protection Agency Board of Directors (the "Board"). The Board can
10 impose a fine up to Three Thousand Dollars (\$3,000.00) per violation noted in the
11 citation. Costs of corrective action and community service in lieu of all or a portion
12 of the fine may be accepted by the Board. Fines imposed and collected under this
13 Section will be deposited into the Water Protection Fund. Judicial review may be had
14 of any Board decision by any party affected adversely by it. If the Board decision is
15 not in accordance with law or not supported by substantial evidence, the Court shall
16 remand the Board to take action according to law or the evidence.

17 (b) **Administrative** - Whenever on the basis of any information available the
18 Administrator reasonably determines that any person has violated the provisions of this
19 rules and regulations or a lawful order, or has violated any permit condition or
20 limitation, the Administrator may assess a civil penalty that may not exceed Ten
21 Thousand Dollars (\$10,000.00) per day per violation that the violation continues,
22 except that the maximum amount of any civil penalty under this Section shall not
23 exceed One Hundred Twenty-five Thousand Dollars (\$125,000.00).

24 (1) Before issuing an order assessing a civil penalty, the Administrator
25 shall give to the person to be assessed such penalty, written notice of the
26 Administrator's proposal to issue such order and the opportunity to request, within
27 thirty (30) days of the date the notice is received by such person, a hearing on the
28 proposed order. Hearing will be conducted as provided under the Administrative
29 Adjudication Law (AAL). In lieu of an order, the Agency may require that alleged
30 violator or violators appear before the Agency for a hearing at a time and place
31 specified in the notice and answer the charges complained of, or the Agency may
32 initiate action pursuant to Section 10114 of this regulations.

1 (a) If, after a hearing held pursuant to the AAL, the Board finds
2 that a violation or violations have occurred, it shall affirm or modify the order
3 previously issued or issue an appropriate order or orders for the prevention,
4 abatement, or control of the pollution or discharges involved or for the taking
5 of such other correction action as may be appropriate.

6 (b) If, after hearing on an order contained in a notice, the Board
7 finds that no violation has occurred or is occurring, it shall rescind the order.

8 (c) Any order issued as part of a notice or after hearing may
9 prescribe the date or dates by which the violation or violations shall cease may
10 prescribe timetables for the necessary action in preventing, abating or
11 controlling the pollution or discharge.

12 (2) In determining the amount of any penalty assessed, the Administrator shall
13 take into account the nature, circumstances, extent and gravity of the violation or
14 violations and with respect to the violator, ability to pay, any prior history of such
15 violations, the degree of culpability, economic benefit or savings if any resulting from
16 the violation, and such other matters as justice may require.

17 (3) If any person fails to pay an assessment of a civil penalty after the order
18 making the assessment has become final, or after a Court in an action has entered a
19 final judgment in favor of the Administrator, the Administrator shall request the
20 Attorney General to bring a civil action to recover the amount assessed. In such an
21 action, the validity, amount, and appropriateness of such penalty shall not be subject to
22 review.

23 (4) The Administrator may settle, modify or release, with or without
24 conditions, any administrative penalty which may be imposed under this Section.

25 B. Liability.

26 The provisions of these regulations shall not be construed to relieve or alleviate
27 the liability of any person for damages resulting from performing, or causing to be
28 performed, by grading, grubbing or stock-piling operation. The government of Guam,
29 GEPA, its officers and employees shall be free from any liability, cost or damage
30 which may accrue from any grading, grubbing or stockpiling or any work connected
31 therewith, authorized by these regulations.

32 C. Severability Clause.

1 If any provisions of these rules, or its application to any person or
2 circumstances, is held invalid, the application of such provision to other persons or
3 circumstances, and the remainder of these rules, shall not be affected thereby.



Office of Senator
Joanne M. Salas Brown
MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

June 9, 2000

The Honorable Antonio R. Unpingco
Speaker
Mina' Bente Singko Na Liheslaturan Guahan
155 Hesler Street
Hagatna, Guam 96910

Dear Speaker Unpingco:

The Committee on Natural Resources to which was referred **Bill No. 392: AN ACT TO APPROVE THE GUAM ENVIRONMENTAL PROTECTION AGENCY (GEP) GUAM SOIL EROSION AND SEDIMENTATION CONTROL REGULATIONS** wishes to report back to *I Liheslaturan Guahan* its recommendation **TO PASS as substituted.**

The voting sheet is as follows:

TO PASS	<u>8</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are enclosed.
Thank you for your attention to this matter.

Sincerely,

JOANNE M.S. BROWN
Senator and Chairperson
Committee on Natural Resources

Enclosures



Office of Senator
Joanne M. Salas Brown
MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN

June 8, 2000

MEMORANDUM

To: Committee Members

From: Chairperson, Committee on Natural Resources

Subject: **Bill No. 392: AN ACT TO APPROVE THE GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA) GUAM SOIL EROSION AND SEDIMENTATION CONTROL REGULATIONS. (As substituted)**

Transmitted herewith for your consideration and action is the Committee Report on Bill No. 392 as substituted. Please indicate your choice on the attached Voting Sheet and return the documents to my office for transmittal to the other members.

Should you have any questions on the narrative report or the accompanying documents, please do not hesitate to contact my office at 472-3450/1.

Your attention and cooperation on this matter is greatly appreciated.


JOANNE M.S. BROWN

Attachments



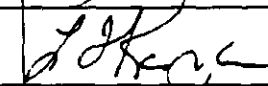
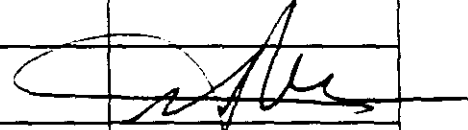
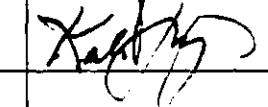
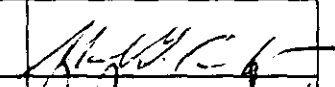
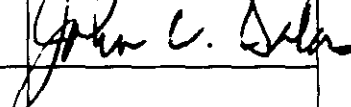
MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

**Committee on Natural Resources
Joanne M.S. Brown
Chairperson**

VOTING SHEET

Committee Report on

BILL NO. 392 (LS): AN ACT TO APPROVE THE GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA) GUAM SOIL EROSION AND SEDIMENTATION CONTROL REGULATIONS. (As Substituted)

MEMBERS	YES	NO	ABSENT	EXCUSED	SIGNATURE
Joanne M.S. Brown Chairperson	✓				
A.C. Lamorena, V Vice Chairman	✓				
L. Kasperbauer Member	X				
S. Sanchez, II Member	✓				SABE
C. Leon Guerrero Member					
M. Forbes Member	✓				
K. Moylan Member	✓				
V. Pangelinan Member					
M. Camacho Member	✓				
J. Salas Member	✓				
F. Aguon, Jr. Member					
A.R. Unpingco Speaker Ex-Officio Member					

Committee on Natural Resources
Senator Joanne M. S. Brown, Chairperson

Tuesday, March 7, 2000
9:00 a.m.

COMMITTEE REPORT

The Committee on Natural Resources held a confirmation hearing on the appointments of Mr. Alfred P. Benavente, Acting Member of the Guam Waterworks Authority, Board of Directors and Mr. Greg S. Kalbaugh, Acting Member of the Guam Environmental Protection Agency, Board of Directors. A Public Hearing also took place with regard to Bill No. 392 (LS)-An Act to Establish the Guam Environmental Protection Agency (GEPA) Guam Soil Erosion and Sedimentation Control Regulations. The confirmation and public hearings took place on Tuesday, March 7, 2000, 9:00 a.m. at the Legislative Public Hearing room. The Senators and Committee Members who were present were:

Senator Joanne M. S. Brown, Chairperson
Senator Carlotta Leon Guerrero
Senator John Salas
Senator Alberto Lamorena V

Senator Joanne Brown commenced the Public Hearing on the appointments of Mr. Alfred Benavente to the Board of Guam Waterworks Authority and Mr. Greg S. Kalbaugh to the Board of Directors of Guam Environmental Protection Agency (GEPA). Immediately following Mr. Kalbaugh's confirmation hearing, she proceeded to hear the testimonies presented regarding Bill No. 392. Mr. Jesus Salas, Administrator of GEPA began his testimony.

Mr. Jesus Salas, for the record, stated his name and thanked the Committee for inviting him to testify on Bill No. 392. Please see Mr. Salas' written testimony, for your easy reference, which is attached to this report.

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- ▶ Developers do not recognize sink holes and thus, are difficult to identify. They do, however, accept and convey large amounts of water to the aquifer. Sometimes when clearing is occurring, we may not know that a sink hole exists in a large property.
- ▶ Sink holes can be altered and may have multiple uses, mainly to convey storm water, but this needs to be drawn out specifically and authorized by the administrator.
- ▶ As proposed in the language, the burden of the detailed studies, would be on the developer if they would like to incorporate it in the development, such as, covering it completely.
- ▶ All sink holes should be identified on their U.S. geological survey maps. They need to be called out and should not be taken for granted that activities could be done in such close proximity to the sink holes, because we could be blocking water that naturally needs to fall in the sink holes.
- ▶ If a sink hole is sitting on private property, then GEPA would have to identify it, much like identifying wet lands.

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- ▶ Senator Eddie Calvo has a bill which would require that an Economic Impact Statement be issued before any fees could be imposed. She asked GEPA if these were new fees that were indicated on the rules and regulations. Mr. Salas responded that new fees are indicated, but these are minimal to the extent of the project. (See pages 43-44)

- ▶ On page 38, number 10- The Protection and Removal of Native Vegetation. She remembers coming across this issue on the performance of I' Tanota. Although it is admirable, it is also unenforceable. How will GEPA have the manpower to look at every single site and determine if it has an appropriate plan for the removal and re-vegetation of a site? Mr. Salas said GEPA does not have the staff at this time, but he hopes the Agency will have the assistance to do so in the future.

Senator Brown said that in spite of the fact that the Agency has limited resources, the hammer that the Agency has, is whether or not in the end the Agency is going to permit a project. This is one of the ways the Agency can get the developer to fall into compliance in addressing these concerns.

Mr. Salas said if GEPA reviewed the project, compliance is up to the individual. With the Agency's limited resources, it does random checks and inspections. With GEPA's initial review, he hopes GEPA will catch the problem areas.

- ▶ On page 44 (C) Fees for Additional Plan Reviews, what would be additional plan reviews? Why would GEPA charge people \$30.00 an hour if they come back with revisions or additional plans? **Mr. Salas** said that in order to ensure that the Rules and Regulations are being followed, there would be hours spent, which is allocated to that.

- ▶ On page 51 (G) Corporate Violations. What is the purpose of adding this section to the regulation that whenever a corporation violates any provisions, it should be the responsibility of either the individual directors, officers or agents?
Mr. Salas responded that it is to prevent any ambiguities as to whom is ultimately responsible. He said there have been instances, not in this regulation, but in the litter citation, when an individual working in a company is cited, and yet the company will not accept any responsibility or knowledge of the incident. The company should take responsibility.

- ▶ **Senator Leon Guerrero** inquired how this would work with the corporate shield as this is the reason that corporation form this shield, for protection. **Senator Brown** added that the Committee can look closely into this. If a company has authorized a project to proceed, it becomes their responsibility because they have the permit to do so; It is not the employee who is permitted.

- ▶ What did the road projects, between Agat and Umatac, do to our reefs? Is there anything GEPA can do to improve the situation? **Mr. Salas** said it is years in the making because GEPA did not have these Rules and Regulations back then.



FILE

MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

June 13, 2000

(DATE)

Memorandum

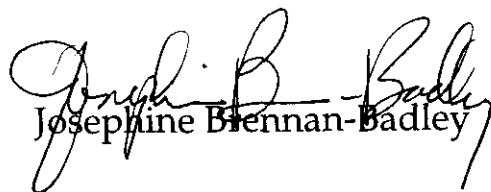
To: Senator Joanne M.S. Brown

From: Clerk of the Legislature

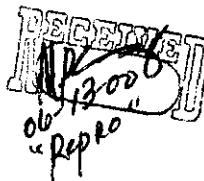
Subject: Report on Bill No. 392(LS)

Pursuant to §7.04 of Rule VII of the 25th Standing Rules, transmitted herewith is a copy of the Committee Report on Bill No. 392(LS), for which you are the prime sponsor.

Should you have any questions or need further information, please call the undersigned at 472-3464/5.


Josephine Brennan-Badley

Attachment





Office of Senator
Joanne M. Salas Brown
MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN

June 9, 2000

The Honorable Antonio R. Unpingco
Speaker
Mina' Bente Singko Na Liheslaturan Guahan
155 Hesler Street
Hagatna, Guam 96910

Dear Speaker Unpingco:

The Committee on Natural Resources to which was referred **Bill No. 392: AN ACT TO APPROVE THE GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA) GUAM SOIL EROSION AND SEDIMENTATION CONTROL REGULATIONS** wishes to report back to *I Liheslaturan Guahan* its recommendation **TO PASS as substituted.**

The voting sheet is as follows:

TO PASS	<u>8</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are enclosed.
Thank you for your attention to this matter.

Sincerely,

JOANNE M.S. BROWN
Senator and Chairperson
Committee on Natural Resources

Enclosures



Office of Senator
Joanne M. Salas Brown
MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN

June 8, 2000

MEMORANDUM

To: Committee Members

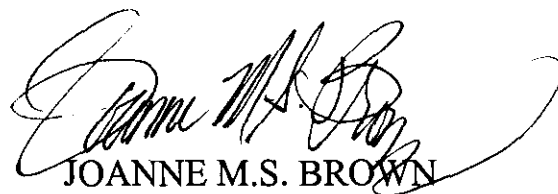
From: Chairperson, Committee on Natural Resources

Subject: **Bill No. 392: AN ACT TO APPROVE THE GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA) GUAM SOIL EROSION AND SEDIMENTATION CONTROL REGULATIONS. (As substituted)**

Transmitted herewith for your consideration and action is the Committee Report on Bill No. 392 as substituted. Please indicate your choice on the attached Voting Sheet and return the documents to my office for transmittal to the other members.

Should you have any questions on the narrative report or the accompanying documents, please do not hesitate to contact my office at 472-3450/1.

Your attention and cooperation on this matter is greatly appreciated.


JOANNE M.S. BROWN

Attachments

MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

Committee on Natural Resources

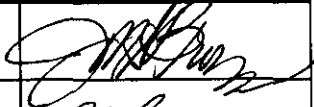
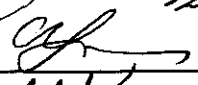
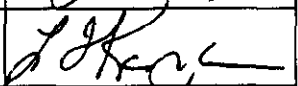

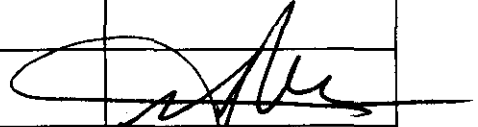

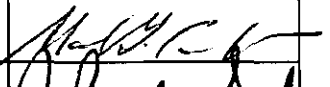
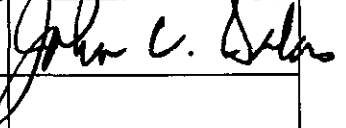
Joanne M.S. Brown

Chairperson

VOTING SHEET

Committee Report on

BILL NO. 392 (LS): AN ACT TO APPROVE THE GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA) GUAM SOIL EROSION AND SEDIMENTATION CONTROL REGULATIONS. (As Substituted)

Joanne M.S. Brown Chairperson	✓				
A.C. Lamorena, V Vice Chairman	✓				
L. Kasperbauer Member	X				
S. Sanchez, II Member	✓				
C. Leon Guerrero Member					
M. Forbes Member	✓				
K. Moylan Member	✓				
V. Pangelinan Member					
M. Camacho Member	✓				
J. Salas Member	✓				
F. Aguon, Jr. Member					
A.R. Unpingco Speaker Ex-Officio Member					

Committee on Natural Resources

Senator Joanne M. S. Brown, Chairperson

Tuesday, March 7, 2000

9:00 a.m.

COMMITTEE REPORT

The Committee on Natural Resources held a confirmation hearing on the appointments of Mr. Alfred P. Benavente, Acting Member of the Guam Waterworks Authority, Board of Directors and Mr. Greg S. Kalbaugh, Acting Member of the Guam Environmental Protection Agency, Board of Directors. A Public Hearing also took place with regard to Bill No. 392 (LS)-An Act to Establish the Guam Environmental Protection Agency (GEPA) Guam Soil Erosion and Sedimentation Control Regulations. The confirmation and public hearings took place on Tuesday, March 7, 2000, 9:00 a.m. at the Legislative Public Hearing room. The Senators and Committee Members who were present were:

Senator Joanne M. S. Brown, Chairperson

Senator Carlotta Leon Guerrero

Senator John Salas

Senator Alberto Lamorena V

Senator Joanne Brown commenced the Public Hearing on the appointments of Mr. Alfred Benavente to the Board of Guam Waterworks Authority and Mr. Greg S. Kalbaugh to the Board of Directors of Guam Environmental Protection Agency (GEPA). Immediately following Mr. Kalbaugh's confirmation hearing, she proceeded to hear the testimonies presented regarding Bill No. 392. Mr. Jesus Salas, Administrator of GEPA began his testimony.

Mr. Jesus Salas, for the record, stated his name and thanked the Committee for inviting him to testify on Bill No. 392. Please see Mr. Salas' written testimony, for your easy reference, which is attached to this report.

Mr. Randy Sablan, also from GEPA, testified on the following:

- ▶ He would like to add a section on Protection of Sink Holes. Please see Section 10106. Special Requirements on the Protection of Sink Holes, which he submitted and is attached to this report.
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- ▶ As proposed in the language, the burden of the detailed studies, would be on the developer if they would like to incorporate it in the development, such as, covering it completely.
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- ▶ What did the road projects, between Agat and Umatac, do to our reefs? Is there anything GEPA can do to improve the situation? **Mr. Salas** said it is years in the making because GEPA did not have these Rules and Regulations back then.

Senator Lamorena inquired:

- ▶ How are the regular citizens going to be informed of these Rules and Regulations and to ensure that they will conform to them?
Mr. Salas said there are exemptions in the Rules and Regulations. One of the things GEPA ensures is that the consultants are aware of the Rules and Regulations. In addition to that, at the initial stage, by educating the people also helps. The review is also being conducted at the offices as well.

- ▶ He also notices, due to the frequent road constructions around the island, pulverized asphalt is being used to fill needed areas. What are the Rules and Regulations pertaining to pulverized asphalt because of the danger it may have if dumped on the water lens? According to **Mr. Salas**, it is common practice in the states. This is another area that needs to be studied further to see the impact it may have.

- ▶ How is the issue of junk cars on private properties being addressed in the Rules and Regulations? **Mr. Salas** replied that GEPA is looking into this but in a separate statute.

Senator Brown also requested that GEPA provide a justification for each fee that is going to be charged; for example, if the fee is \$30.00 an hour to review a certain project, what is the cost, in terms of the hourly wage of the workers and resources? She also requested GEPA to provide a point sheet.

The public hearing on Bill No. 392 adjourned at 11:10 a.m.

**MINA ‘BENTE SINGKO NA LIHESLATURAN GUAHAN
2000 (SECOND) REGULAR SESSION**

Bill No. 392(LS)

As Substituted by the Committee on Natural Resources

Introduced by:

J.M.S. Brown

**AN ACT TO APPROVE THE GUAM ENVIRONMENTAL
PROTECTION AGENCY (GEPA) GUAM SOIL EROSION AND
SEDIMENTATION CONTROL REGULATIONS**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. In accordance with the Administrative Adjudication Law, §9303 of Title 5 of the Guam Code Annotated, as amended by Public Law Number 24-27, on December 10, 1997 the Guam Environmental Protection Agency (GEPA) transmitted on January 25, 2000 to *I Liheslaturan Guahan*, the “*Guam Environmental Protection Agency Guam Soil Erosion and Sedimentation Control Regulations*” which were adopted on April 24, 2000. *I Liheslaturan Guahan* wishes to amend the rules and regulations as proposed by GEPA to further strengthen its implementation.

Section 2. Approval of GEPA Regulations. *I Liheslaturan Guahan* hereby approves the GEPA rules and regulations, Exhibit A, entitled, “*Guam Environmental Protection Agency Guam Soil Erosion and Sedimentation Control Regulations*.”

Section 3. Severability. If any provision of this Law or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this Law which can be given effect without the invalid provisions or application, and to this end the provisions of this Law are severable.

Section 4. Effective Date. Effective date of this Act shall be October 1, 2000.

EXHIBIT A
GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS
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1 GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS

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22 GAR - GEPA

Division II - Water Control

CHAPTER 10

GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS

Section 10100. Authority

10 GCA Chapter 47 - "Water Pollution Control Act."

Section 10101. General Provisions: Purpose, Scope, Applicability and Exemptions.

A. Purpose.

Whereas soil erosion and sedimentation resulting from the construction of sub-divisions, industrial and commercial developments, highways and other activities requiring excavation and filling can affect the purity of wetlands, streams and marine waters on Guam and thereby may cause unreasonable damage to aquatic and marine life in general; and whereas, the pollution of wetlands, streams and marine waters must be controlled to ensure a reasonably clean environment for the People of Guam; and whereas, the Guam Environmental Protection Agency has been vested with the responsibility to maintain at all times a high quality of environment to guarantee an enjoyable life for all people at present and in the future; and, whereas, the environmental degradation of the quality of land, water and air by any pollutants, including all physical, chemical and biological agents, should not be allowed; and, whereas, the Guam Environmental Protection Agency has been vested with the responsibility to conserve surface and groundwater resources and to protect, maintain and improve the quality and potability thereof; it is declared ~~to be~~ that the purpose of these regulations is to control accelerated soil erosion, ~~and the resulting sedimentation of the waters of the Territory~~ thereby

1 preventing the pollution of Guam’s waters from fertilizers, pesticides, sediments and other
2 polluting substances carried by sediment, and to protect property and to promote the public
3 health, safety and welfare by regulating grading, clearing, grubbing and stockpiling, and by
4 setting minimum standards for erosion and sedimentation control for the Island of Guam.

5

6 It is also the purpose of these regulations to manage nonpoint source pollution consistent with
7 the latest “Guam Nonpoint Source Program”, the “Guam Erosion & Sedimentation Manual”
8 guidelines and recommendations, the comprehensive approach set forth in Section 6217 of the
9 Coastal Zone Act Reauthorization Amendments of 1990, “Protecting Coastal Waters”,
10 codified as 16 U.S.C. §1455(b), and the “Guidance Specifying Management Measures for
11 Sources of Nonpoint Pollution in Coastal Waters” (EPA/840-B-92-002, dated January 1993)
12 issued under the authority of Section 6217(g) of the Coastal Zone Act Reauthorization
13 Amendments of 1990 recommendations.

14

15 B. Scope.

16 The provisions of these regulations impose requirements on those earth-moving activities
17 which create accelerated erosion or a danger of accelerated erosion and which require planning
18 and implementation of effective soil conservation measures. These regulations set forth
19 requirements for the control of grading, clearing and grubbing, and stockpiling, set limits for
20 erosion and sedimentation, establish administrative procedures and minimum requirements
21 for issuance of permits and provide for the enforcement of such rules and regulations.

22

23 C. Applicability.

24 These regulations apply to all clearing, grubbing, grading, embankment or filling, excavating,
25 stockpiling or other earth-moving operations on Guam which require a permit as provided for
26 in 21 Guam Code Annotated, Chapter 66 (as amended). Such applicable clearing or
27 earth-moving operations include those performed by private and governmental sectors,
28 including, the Government of Guam and federal agencies on Guam. The Administrator shall
29 review every application for a permit for earth-moving operations in order to determine

30

31

1 applicability or exemption, as provided for in Section, Sub-Section D, below.

2

3 D. Exemptions.

4 An application for a clearing, grubbing, grading, embankment or filling, excavating or other
5 earth-moving activity shall be submitted to the Agency for review, and approved before the
6 activity is started. The following earth-moving activities may be exempted from these
7 regulations if the Administrator, in writing, determines that the scope or size of the activity
8 will not create either an erosion or other hazard to surface or marine waters of Guam:

9

10 ~~1) A clearing, grading, filling, excavating or other earthmoving activity may be~~
11 ~~exempted from these regulation by the Administrator if, in his discretion, he determines in~~
12 ~~writing that the scope, or size of such earth-moving activity does not require compliance with~~
13 ~~these regulations~~

14 ~~— 2) The following earth-moving activities and operations are exempt from these~~
15 ~~regulations except in cases where the Administrator, in his discretion, determines that~~
16 ~~these regulations shall apply.~~

17

18 1. Clearing, grading and filling for the purpose of constructing a house, pad or driveway for
19 a one-or two-family residence;

20

21 2. Grading in an isolated, self contained area; ~~provided there is no apparent danger of erosion;~~

22

23 3. An excavation for basements, footings, retaining walls or other structures which are
24 authorized by a valid building permit. Such ~~exemption~~ exemptions shall not include any
25 excavation where dewatering is undertaken, ~~nor~~ any fill is made with the excavated material,
26 ~~nor~~ or any unsupported excavation of more than five feet deep ~~which~~ is excavated after the
27 completion of such structures.

28

29 4. Clearing & grubbing individual cemetery graves or plots without using heavy equipment.

30

31

1 5. Excavations for wells, tunnels or utilities, which are permitted under different rules &
2 regulations.

3

4 6. Exploratory excavations for wells or for the purpose of soils testing, provided that no
5 clearing and grubbing or grading is to be performed; ~~otherwise a permit is required.~~

6

7 7. Any excavation which is less than two feet in depth or which creates a cut slope less than
8 five feet in height and no steeper than a slope ratio of 1-1/2 horizontal to 1 vertical for
9 coralline type soil and 3:1 slope for clay type soil, provided that all slopes and open areas are
10 stabilized and vegetated.

11

12 8. Any fill which is less than one foot in height and placed on undisturbed terrain with
13 existing topography of a ratio less than 5 horizontal to 1 vertical and which does not obstruct
14 a drainage course, provided the area of the property does not exceed 5,000 sq. ft. and open
15 areas are properly stabilized and vegetated.

16

17 9. Field plowing and normal tilling operations, or clearing land ~~or re-clearing~~ for agricultural
18 purposes provided these activities or operations do not cause sediment and runoff water to
19 move beyond the edge of the farm boundaries and degrade the water quality of the receiving
20 water bodies, ~~are performed in accordance with the guidelines and standards of Resource~~
21 ~~Management Systems, approved by Guam's Soil Conservation District.~~ Initial field plowing
22 or clearing land for agricultural purposes must be performed in accordance with the
23 implementation of a conservation management system that meets minimum standards
24 contained in the U.S. Field Office Technical Guides and approved by either the appropriate
25 Soil and Water Conservation District created by 5 GCA Chapter 63, in accordance with an
26 approved USDA Soil Conservation Service "Conservation Plan" or the Director of the Guam
27 Department of Agriculture.

28

29

30

31

1 10. Clearing and grubbing of land for the purpose of making topographic surveys, and hand
2 clearing of trails for survey lines and for access for soil exploration equipment.

3

4 E. Certain Rules of Word Usage

5 1. Words used in the present tense include the future tense, and the singular includes the plural
6 unless the context clearly indicates the contrary.

7

8 2. The term "shall" is always mandatory and not discretionary; and the word "may" is
9 permissive.

10

11 3. A word or term not interpreted or defined by this article shall be used with a meaning of
12 common or standard utilization.

13

14 **Section 10102. Definitions.**

15

16 A. Meanings of words and terms. The following words and terms, when used in these
17 regulations, shall have the following meanings, unless the context clearly indicates otherwise:

18

19 1. Accelerated erosion: The removal of the surface of the land through the combined action
20 of man's activities and natural processes at a rate greater than would occur because of the
21 natural process alone.

22

23 2. Administrator: The Administrator of the Guam Environmental Protection Agency or his
24 authorized representative.

25

26 3. Agency: The Guam Environmental Protection Agency (GEPA).

27

28 4. Board: Board of Directors, Guam Environmental Protection Agency.

29

30

31

- 1 5. Building pad: The compacted land area on which a structure is to be built.
2
- 3 6. Building permit: The official document issued by the Building Official, Government of
4 Guam, authorizing specific construction activities.
5
- 6 7. Channel: ~~shall mean~~ A natural stream that conveys water; a ditch excavated for the flow
7 of water.
8
- 9 8. Check dam: ~~shall mean~~ A structure used to reduce or prevent excessive erosion by
10 reduction of velocities in water courses.
11
- 12 9. Chutes/flumes: ~~shall mean~~ Channels of concrete or comparable material that are used to
13 conduct storm runoff down slopes where concentrated runoff would cause slope erosion.
14
- 15 10. Clearing and grading permit: An official document issued by the Building Official,
16 Department of Public Works, Government of Guam, authorizing specified earth-moving
17 operations. Such a permit requires the approval of the Director of Land Management and the
18 Administrator of the Guam Environmental Protection Agency, unless otherwise exempted by
19 the prevailing regulations, before ~~the~~ its issuance by the Building Official.
20
- 21 11. Clearing and grubbing: The removal of vegetation, including trees, timber, shrubbery,
22 and plants, when said vegetation is dislodged or uprooted from the surface of the ground, ~~or~~
23 ~~when removal of structures or other objects are removed from the ground in the course or~~
24 ~~progress of construction or agricultural use.~~
25
- 26 12. Compaction: The densification of a fill by mechanical means.
27
- 28 13. Crimping: A method used to secure fiber mulches. The operation is performed by a
29 crimping machine which partially punches the mulch into the soil.
30
31

- 1 14. Deflection Structures: Stones ~~A stone~~, or concrete or wooden groins placed ~~constructed~~
2 in a river or stream at an angle outward from the shore in a downstream direction to deflect
3 the current away from a critical area of the bank.
4
- 5 15. Denuded: Bare; naked; stripped.
6
- 7 16. Developer: Any person who is engaged in land development. ~~A person or corporate~~
8 ~~entity who controls a land parcel from its acquired state through the process of urbanization.~~
9 ~~The acquired state may be wild or farm which is changed to a shopping center, housing unit,~~
10 ~~commercial unit or amenities, golf courses, etc.~~
11
- 12 17. Dissipate: To scatter; disperse; cause to vanish.
13
- 14 18. Diversion: To change the accustomed course of all or part of a stream or of sheet runoff.
15
- 16 19. Diversion dike: A temporary ridge of soil constructed at the top of a cut or fill slope to
17 divert overland flow from small area away from unstabilized slopes.
18
- 19 20. Diversion ditch: A ditch constructed to channel stream or sheet runoff into desired
20 directions, and may also be referred to as Interceptor Channel.
21
- 22 21. Diversion terrace: A channel or dike constructed up slope of an area for the purpose of
23 diverting storm water runoff.
24
- 25 22. Earth material: Any rock, coral, sand, gravel, natural soil or fill /or any combination
26 thereof.
27
28
29
30
31

1 23. Earth-moving operations: Human caused alterations to the existing topography. ~~Also see~~
2 ~~clearing, grading, filling and excavation.~~ Any construction or other activity which disturbs
3 the surface of the land including, but not limited to, clearing, grading, excavation,
4 embankment, construction, and development, subdivision development, mineral extraction,
5 sand mining, and the moving, depositing or storing of soil, rock or earth.

6

7 24. Embankment ~~or fill: An act by which soil, rock, or other materials are placed or deposited~~
8 ~~by man or by artificial means, and the resulting placements or deposit.~~ A placement of soil,
9 rock, or other material by man.

10

11 25. Engineer: A person duly registered as a professional civil and/or structural engineer on
12 Guam.

13

14 26. Engineer's Soils Report: A report on soils conditions prepared by a professional engineer
15 qualified in the practice of civil and/or structural engineering.

16

17 27. Environmental Impact Statement: A comprehensive and systematic assessment of
18 environmental impacts which would likely result from a human activity or action. Its purpose
19 is to provide, in part, a basis for making decisions which will affect the human condition as
20 well as the purely biological or natural conditions of our environment. It should provide a
21 reasonable set of alternatives and a preferred option which appropriately balances various
22 environmental concerns, including financial, social or cultural concerns. The assessment
23 should rely on proven assessment methods both scientific and political.

24

25 28. Environmental Protection Plan: A document describing, for a proposed development, the
26 methods/equipment selected for use, expected environmental problems during and after
27 construction, and methods and equipment chosen to avoid, mitigate or control potential
28 adverse effects on the environment.

29

30

31

- 1 29. Erosion: (1) The wearing away of the land surface by ~~running~~ water, wind, or other
2 geological agents. (2) Detachment and movement of soil or rock fragments by water, wind or
3 gravity.
4
- 5 30. Erosion check: ~~A technique whereby porous, material like is installed in a slit trench~~ A
6 slit trench filled with porous matter that is oriented perpendicular to the direction of flow in
7 a ditch or swale to prevent the formation of rills and gullies. ~~gullied by permitting subsurface~~
8 ~~water migration without the removal of soil particles.~~
9
- 10 31. Erosion and sediment control: The control of solid material, both mineral and organic,
11 during an earth-moving operation, intended to prevent its transport out of the operation area
12 by means of air, water, or gravity.
13
- 14 32. Excavating: Lowering the existing ground elevation by earth-moving operations.
15
- 16 33. Excavation or cut: ~~An act by which earth material is cut into, dug, or moved and shall~~
17 ~~include the conditions resulting therefrom.~~ A cavity formed by digging, cutting, quarrying,
18 uncovering, displacing or relocating soil or rock.
19
- 20 34. Existing grade: The grade prior to grading.
21
- 22 35. ~~Fill or filling: Raising the existing ground elevation by earth-moving operations.~~ A
23 placement of soil, rock, or other material by man to raise the existing ground elevation.
24
- 25 36. Finish grade: The final grade of the site which conforms to the approved plan.
26
- 27 37. Grading: Establishing a topographical profile by earth-moving operations involving cuts
28 and fills or excavation or other earth work activities.
29
30
31

- 1 38. House pad: The compacted land area on which a dwelling structure is to be built.
2
- 3 39. Interceptor channel: A channel or dike constructed across a slope for the purpose of
4 intercepting storm water, reducing the velocity of flow, and diverting it to outlets where it can
5 be disposed.
6
- 7 40. Interceptor dike: A temporary ridge of compacted soil across a graded right-of-way that
8 ~~are~~ is not subject to vehicular traffic, designed to intercept and divert storm runoff ~~and divert~~
9 it to temporary outlets where it can be disposed of with minimal erosion.
10
- 11 41. Intermittent stream: A stream or portion of a stream that flows only in direct response to
12 precipitation and receives little or no water from springs ~~and no long-continued supply from~~
13 or other sources.
14
- 15 42. Jute Netting: A heavy woven jute mesh laid directly over seedbeds to minimize soil
16 erosion in critical areas until vegetation can become firmly established. Due to its thick
17 fibrous composition, it also functions as a mulch to conserve soil moisture, insulate against
18 solar insulation, dissipate energy from falling raindrops and reduce erosion caused by overland
19 flow.
20
- 21 43. Key: A designed compacted fill placed in an earthen trench excavated beneath the toe
22 of a proposed fill slope.
23
- 24 44. Land developer: Any person who is engaged in land development.
25
- 26 45. Land development: The constructing, installing, placing, planting, or building of surface
27 structures, utility lines, shopping centers and malls, golf courses, apartment complexes,
28 schools, roads, highways, parking areas, or any other similar activity.
29
30
31

- 1 46. Level spreader: An outlet constructed at zero grade across a slope to collect concentrated
2 runoff and convert it into sheet flow with non-erosive velocities onto areas stabilized by
3 existing vegetation.
4
- 5 47. Mulch: A natural or artificial layer of plant residue (fiber mulches) other materials, such
6 as sand or paper, on the soil surface.
7
- 8 48. Mulch blanket : Blanket type materials used in the establishment of vegetation on swales,
9 ditches and steep slopes where fiber mulch products do not provide sufficient levels of
10 protection during germination and early growth.
11
- 12 49. Netting: A method of securing fiber mulches through the use of jute, plastic, paper or
13 fiberglass nets on steep exposed slopes where crimping is not possible and tacking will not
14 perform satisfactorily.
15
- 16 50. Outcrop: To come to, or be exposed on the surface.
17
- 18 51. Permeability: The property of a porous material which permits the passage or seepage of
19 fluids, such as water for example, or air through its interconnection voids.
20
- 21 52. Permeable: Having a texture through which water can move. ~~that permits water to move~~
22 ~~through.~~
23
- 24 53. Permit: An official document or certificate issued by the Building Official, Government
25 of Guam, authorizing the performance of a specified activity.
26
- 27 54. Permittee: The recipient of an approved permit issued by the Building Official,
28 Government of Guam.
29
30
31

- 1 55. Person: Any individual, partnership, firm, association, municipality, public or private
2 corporation, subdivision or agency of the Territory of Guam or the Federal Government, trust,
3 estate or any other legal entity.
4
- 5 56. pH: A numerical measure of the acidity or hydrogen ion activity of a soil. (The neutral
6 point is pH = 7.0. All pH values below 7.0 are acid and all above 7.0 are alkaline).
7
- 8 57. Right-of-way: Right of passage over another person's land; a route that is lawful to use;
9 a strip of land acquired for transport or utility construction.
10
- 11 58. Riprap: Broken rock, cobbles or boulders placed on earth surfaces such as the face of a
12 dam or the bank of a stream, for protection against the action of water or waves; also applied
13 to brush or pole mattresses, or brush and stone, or other similar materials used for soil erosion
14 control.
15
- 16 59. Rough grade: The stage at which the grade approximately conforms to the approved plan.
17
- 18 60. Runoff: Water from rain or irrigation that flows over the ground ~~surface~~ to surface,
19 marine or ground waters. It can collect pollutants from air or land and carry them to the
20 receiving waters. Also, that part of the precipitation which runs off the surface of a drainage
21 area and reaches a stream, body of water, drain or sewer.
22
- 23 61. Sandbag sediment barrier: ~~shall mean~~ Temporary barriers or diversions that are
24 constructed of sandbags.
25
- 26 62. Sectional down drain: A prefabricated sectional conduit of half-round, bituminized fiber
27 pipe or other material used to conduct storm runoff from one elevation to another without
28 erosion of slope.
29
30
31

- 1 63. Sedimentation: The depositing of sediments.
2
- 3 64. Sediment retention basin: A temporary dam or basin, or a combination of both, that will
4 trap and store sediment produced on exposed areas and delivered to the structure by storm
5 runoff.
6
- 7 65. Sediments: Mineral or organic solid materials that settle to the bottom of water. ~~are being~~
8 ~~transported or have been moved from their site of origin by wind or water, and have come to~~
9 ~~rest on the earth's surface, either above or below sea level.~~
10
- 11 66. Site: The spacial location, under the same ownership, of an actual or planned structure
12 or structures, or earth-moving activity.
13
- 14 67. Slope: An inclined ground surface, the inclination of which is expressed as a ratio of
15 horizontal distance to vertical distance.
16
- 17 68. Soil: ~~(1) The unconsolidated mineral and organic material found on the earth's upper~~
18 ~~layer, that may be dug or plowed and in which plants can grow. on the immediate surface of~~
19 ~~the earth that serves as a natural medium of the growth of land plants. (2) The unconsolidated~~
20 ~~mineral matter on the surface of the earth that has been subjected to and influenced by genetic~~
21 ~~and environmental factors of parent material, climate (including moisture and temperature~~
22 ~~effects), macro and micro organisms, and topography, all acting over a period of time and~~
23 ~~producing a product - soil - that differs from the material from which it is derived in many~~
24 ~~physical, chemical, biological, and morphological properties and characteristics.~~
25
- 26 69. Soil engineering: The application of the principles of soil mechanics in the investigation,
27 evaluation and design of civil works involving the use of earth materials, and the inspection
28 and/or testing of the construction thereof.
29
30
31

- 1 70. Soil erodibility factor (k): A measure of the susceptibility of soil particles to detachment
2 and transport by rainfall and runoff.
3
- 4 71. Soil slopes: All denuded cut, fill or natural soil constituted slopes.
5
- 6 72. Stabilization: The proper placing, grading and/or covering of soil, rock or earth to insure
7 its resistance to erosion, sliding, or other movements.
8
- 9 73. Stockpiling: Temporary open storage of earth materials upon any premises where a
10 grading permit has been issued for the purpose of using the materials at some other premises
11 at a future time.
12
- 13 74. Storm water management: The practice of using detention measure to reduce the impact
14 of minor storms which cause accelerated erosion of stream channels and drainage ways (not
15 to be confused with control of flood flows).
16
- 17 75. Storm water runoff: Rain that is not absorbed when it comes in contact with the soil and
18 thus runs down hill into waters of Guam. This runoff may carry soil with it.
19
- 20 76. Strip planting: The planting of strips of wet soil tolerant, high erosion resistant vegetation
21 in the critical area near the waterline of a major waterway, and the planting of conventional
22 robust rooted grasses and legumes above the critical zone.
23
- 24 77. Subdivision: The division, re-division or change of lot lines of a lot, tract, or parcel of
25 land for the purpose of leasing, transferring ownership, or development, either immediately
26 or in the future.
27
- 28 78. Tacking: A method of securing mulches by the application of an asphalt or chemical
29 binder which binds the individual fibers together to form a resistant blanket.
30
31

- 1 79. Temporary stabilization: Protecting soil from excessive erosion for a short period of
2 time. Usually, temporary stabilization is designed to last for less than one year.
3
- 4 80. Terrace: A relatively level step constructed in the face of a grade slope surface for
5 drainage and maintenance purposes.
6
- 7 81. Territory: The ~~Territory~~ of Island of Guam, United States of America.
8
- 9 82. Tetrahedron: Solid figure with four (4) triangular surfaces.
10
- 11 83. Uniform Building Code (UBC): The most recent edition of minimum standards to
12 safeguard life or limb, health, property and public welfare by regulating and controlling the
13 design, construction, quality of materials, use and occupancy, location, and maintenance of
14 all buildings and structures within Guam, as published by the International Conference of
15 Building Officials.
16
- 17 84. Waters of ~~the Territory~~ Guam: All shore waters ~~surrounding Guam~~, streams, lakes, wells,
18 springs, irrigation systems, wetlands, sinkholes, marshes, swamps, watercourses, waterways,
19 drainage systems and other bodies of water, surface and underground, natural or artificial,
20 publicly or privately owned, on or surrounding Guam.
21
- 22 85. Watershed: ~~The area contained within a divide above a specified point on a stream.~~ For
23 any river, stream or other water body, the drainage area that contributes water to that water
24 body.
25
- 26 86. Watershed divide: The line that follows the ridges or summits forming the exterior
27 boundary of a drainage basin and separates one drainage basin from another.
28
- 29 87. Waterway: A natural course or constructed channel for the flow of water.
30
31

1 **Section 10103. Permit Issuance and Denials.**

2

3 A. Permits Required.

4

5 1. Unless exempted, no person shall commence or perform any grading, clearing, grubbing,
6 embankment, filling, excavation or other earth-moving activity without a grading permit;

7

8 2. Unless exempted, no person shall commence or perform any stockpiling without a
9 stockpiling permit.

10

11 B. Permit Application Process.

12 An applicant shall obtain the required application from the Building Permit Section,
13 Department of Public Works located at the One-Stop Permit Center, and shall complete and
14 submit the application to the One-Stop Permit Center for review and approval of all concerned
15 agencies, including the Guam Environmental Protection Agency.

16

17 C. Permit Application Contents

18 1. A description of the proposed activity, including its purpose, proof of land ownership (title,
19 deed or authorized letter) and other pertinent information as may be required by the
20 Administrator.

21

22 2. A vicinity map or plan of the site indicating:

23

24 a. Site information. The location, including names and locations of streets, roadways,
25 and right-of-ways; property line locations, dimensions and azimuths, easements and
26 setbacks of property; the location of any utility and utility lines, buildings, structures and
27 improvements on or within 100 feet of the site; prominent visible rock out-cropping;
28 elevations, dimensions, location, extent and slopes of all proposed earth moving

29

30

31

1 activities shown by contours and/or other means; the area in square feet of the land to
2 be affected; and the quantities of excavation and fill involved.

3

4 b. Water course information. Locations, dimensions and flow of springs, rivers,
5 wetlands, wells and streams; natural drainage depressions, basins and sinks; flood plains
6 on the project site and downstream locations which will undergo changes due to the
7 proposed earth-moving operations; and existing and proposed water quality monitoring
8 stations located on or nearby the project site.

9

10 c. Vegetation information. Location and type of existing trees with a diameter of 12
11 inches and greater.

12

13 3. Required maps will be prepared and signed by a licensed land surveyor. Grading plans and
14 specifications will be prepared and signed by an engineer. Required maps should conform to
15 the latest Zoning Code of Guam's Land Use Plan and subdivision law. The scale shall be no
16 smaller than 1 inch = 50 feet or 1 inch = 5 meters.

17

18 4. An application for a stockpiling permit shall include: a plot plan showing the property
19 boundaries; easements, setbacks, and location of the proposed stockpiles; quantities; height
20 of stockpile; the kind/source of the material to be stockpiled; expected life of the stockpile, and
21 any other information required by the Administrator to control dust, drainage or sedimentation
22 problems. Where stockpiling is for the purpose of surcharging to stabilize or consolidate an
23 area, the permittee shall submit an engineer's soil report which shall include data on the effect
24 such surcharging will have on adjacent buildings or structures.

25

26 5. Required Plans

27

28 a. Erosion and Sediment Control Plan. ~~as a prerequisite of all permits issued by the~~
29 ~~Building officials, Department of Public Works,~~ This plan is required for clearing,

30

31

1 grading, grubbing, embankment or filling, excavation or other earth-moving operations
2 not otherwise exempted by these regulations.

3
4 b. Storm water Runoff Drainage System Plan. This plan, in addition to the Erosion
5 and Sediment Control Plan, is required when the area to be graded is more than 5,000
6 square feet or a proposed cut or fill is greater than five feet in height.

7
8 c. Both the Erosion and Sediment Control and Storm water Runoff Drainage Systems
9 Plans shall:

10
11 i. be prepared and signed by an engineer in accordance with these regulations,
12 and the best management practices (BMP) guidance manual or other
13 application of BMPs; and.

14
15 ii. show the method to be used for controlling erosion and disposal of storm
16 water runoff prior to and post construction, including drainage devices such as
17 terraces, berms, ditches culverts, subsurface drains, sedimentation basins, and
18 the estimated runoff quantities of the areas served by each drain and drainage
19 structure.

20
21 d. Environmental Protection Plan will be required depending on the intensity and
22 scope of the project. This plan will describe the methods and equipment to be
23 used on site: expected or anticipated environmental problems during and after
24 construction: and the methods and equipment that may be used to avoid,
25 mitigate or control potential adverse effects on the environment.

26
27 6. When a proposed cut or fill is greater than five (5) feet or the proposed grading is on land
28 with slopes exceeding 5 percent, or when any fill is to be placed in a gully, or when the fill
29 material will be a highly plastic clay, the applicant shall submit to the Administrator, for the
30

31

1 Agency's evaluation and review, an engineer's soils report signed by an engineer and
2 approved by the owner. The soils report shall include data regarding the nature of the
3 distribution and engineering characteristics of existing soils, and the subsurface conditions at
4 the site. It shall recommend the limits for the proposed grading, the fill material to be used,
5 the geotechnical calculations for the cut or fill area, and the manner of placing, including the
6 heights and slopes of cut and fill sections.

7

8 7. When an activity or project is located within an environmentally sensitive area (e.g.; areas
9 that affect seashore, rivers and streams, wetlands, critical habitats, and aquifers), an
10 Environmental Impact Assessment (EIA) must be submitted, unless the Administrator
11 determines in writing that the activity is exempted from EIA requirements.

12

13 8. If wetlands exist on the property to be cleared and grubbed, graded or used for stockpiling
14 of earth materials, the (wetlands) must be identified with both field markings and by mapping
15 on the site and/or grading plan(s). Wetlands cannot be cleared, grubbed, graded or otherwise
16 be used as a stockpiling site without first obtaining both a valid Guam Wetland Development
17 Permit and a U.S. Army Corps of Engineers Section 404 fill or discharge permit.

18

19 9. The Administrator may require that wetlands, on the property to be cleared, grubbed or used
20 for stockpiling of earth materials, be officially delineated, in whole or in part, when conditions
21 such as slope, soil stability, proximity of work or other performance related conditions warrant
22 an official delineation. Individuals required to delineate wetlands in accordance with this
23 provision shall apply the mapping requirements of the Guam Environmental Protection
24 Agency Wetlands Mapping Policy, revised November 9, 1995.

25

26 10. Other permits, plans or approvals associated with and issued for the proposed project shall
27 be submitted with the permit application. Activities described in the permit application shall
28 be consistent with these permits, plans or approvals. Such documents include, but are not
29 limited to:

30

31

1 a. Any required conditional use seashore clearance, wetland, Section 401 WQC,
2 Section 404 permits (CWA), and planned development approvals, height variances,
3 plan review use approvals, or re-zoning under the Guam Zoning Regulations;

4
5 b. Sub-division approvals, when an application includes the grading of a development
6 that is to be subdivided, pursuant to the Guam Subdivision Rules and Regulations;

7
8 c. Conditional use approvals from Territorial Land Use Commission, when the area
9 to be graded or excavated will be used as quarry, and extracted materials used to fill
10 a different area or sold as a fill material by the owner.

11

12 D. Permit Conditions

13 1. ~~Additionally,~~ No permit for earth-moving operations will be issued that will cause erosion
14 and sediment loads or cause pollution to the waters of the Territory Guam, as defined by the
15 latest Guam Water Pollution Control Act and the ~~current~~ Water Quality Standards, unless an
16 Environmental Protection Plan and an Erosion and Sediment Control Plan have ~~has~~ been
17 approved by the Agency.

18

19 2. The Administrator may attach such conditions as may be reasonably necessary to ensure
20 that any grading work is for a use or structure permitted in accordance with zoning
21 requirements, and to prevent creation of a nuisance or hazard to public or private property,
22 health or welfare. Such conditions may include but are not limited to:

23

24 a. improvements of any existing grading to bring it up to the standards of these
25 regulations;

26

27 b. requirements for fencing of excavation or fill to minimize hazards;

28

29

30

31

1 c. requirements for retaining walls or other earth retention structures to prevent loss
2 of, support to, erosion of, and interference with natural drainage patterns on adjacent
3 properties;

4

5 d. requirements involving clean-up of an area; and

6

7 e. limitations on the months, days and hours of permitted work.

8

9 3. The issuance of a grading permit shall constitute an authorization to do only that work
10 which is described in the permit and in the plans and specifications approved by the
11 Administrator.

12

13 4. Permits issued under these regulations shall not relieve the permittee of the responsibility
14 for securing permits or approvals for work to be done which is regulated by any federal laws
15 or other laws of Guam, or by department, or division of the governing agencies of the
16 Government of Guam.

17

18 5. Permits issued under these regulations shall be consistent with other permits, plans or
19 approvals associated with the proposed project.

20

21 6. Where any operations are delayed for any reason, a revised work schedule shall be
22 submitted to the Administrator which describes any required modifications to the temporary
23 storm water drainage system and to the Erosion and Sediment Control Plan, and other
24 information the Administrator may require.

25

26 7. A copy of the permit, plans and specifications for grading, clearing & grubbing, or
27 stockpiling shall be maintained at the job-site during the progress of the work.

28

29

30

31

1 E. Permit Denials.

2 The Administrator shall deny a clearing and grubbing, grading or stockpiling permit if there
3 is reasonable cause for concern that the work as proposed by the applicant may present a risk
4 or endangerment to public health or the environment. Factors to be considered in determining
5 probability of dangerous conditions include, but are not limited to:

6

7 1. possible saturation of ground by rain;

8

9 2. dangerous geological conditions or flood hazards;

10

11 3. undesirable surface water runoff, and

12

13 4. subsurface conditions such as the stratification and faulting of rock, nature and type of soil
14 or rock.

15

16 **Section 10104. Erosion and Sediment Control Plans**

17

18 A. General Requirements

19 1. All earth-moving activities on Guam shall be conducted in such a way as to prevent
20 accelerated erosion and the resulting sedimentation. To accomplish this all persons engaged
21 in earth-moving activities shall design, implement, and maintain erosion and sediment control
22 measures which effectively prevent accelerated erosion and sedimentation. These erosion and
23 sediment measures must be as set forth in Erosion and Sediment Control Plans submitted,
24 reviewed and approved by GEPA.

25

26 2. All clearing, grading, embankment or filling, excavating and other earth-moving operations
27 shall proceed only in accordance with an Erosion and Sediment Control Plan, prepared in
28 accordance with the requirements set forth in these regulations, and ~~which is~~ duly approved
29 by the Agency.

30

31

1 ~~3. Such Erosion and Sediment Control Plans shall be prepared in accordance with the~~
2 ~~requirements set forth in these regulations.~~

3

4 3. An approved Erosion and Sediment Control Plan does not abrogate a permittee's
5 responsibility to comply with all other applicable Territorial Guam and federal laws and
6 regulations.

7

8 ~~(3) An Erosion Control Plan shall be a prerequisite of all permits issued by the Building~~
9 ~~officials, Department of Public Works, for clearing, grading, filling, excavating or other~~
10 ~~earth-moving operations not otherwise exempted by these regulations. Additionally, no~~
11 ~~permit shall be issued if earth-moving operations will cause erosion and sediment loads~~
12 ~~or cause pollution to the waters of the Territory, as define by the Guam Water Pollution~~
13 ~~Act and the Water Quality Standards, unless and Environmental Protection Plan has been~~
14 ~~approved by the Agency.~~

15

16 B. Agency approval of Erosion and Sediment Control Plans

17 1. ~~Two~~ Four copies of a proposed Erosion and Sediment Control Plan shall be submitted to
18 the Agency with ~~Such Plan copies shall accompany~~ the permit application for earth-moving
19 operations.

20

21 2. The Agency shall have ~~ten~~ thirty (30) working days to approve or disapprove of such plan.

22

23 C. Compliance

24 1. All clearing, grading, embankment or filling, excavating and other earth-moving
25 operations, ~~except as provided under Section II 10109 (3)(b) below, or as~~ those otherwise
26 exempted from these regulations by the Administrator, must proceed in accordance with a duly
27 approved Erosion and Sediment Control Plan.

28

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31

1 2. Earth-moving operations in progress, other than quarrying, shall comply with these
2 regulations within 7-15 calendar days of the effective date of these regulations. Quarrying
3 operations shall comply with these regulations within 30 calendar days of the effective date
4 of these regulations.

5
6 **Section 10105. Erosion and Sediment Control Plans and Measures.**

7
8 A. General policies for Erosion and Sediment Control

9 ~~(a) Planning policies for control of Erosion and Sediment Control Plan~~

10 1. All earth-moving operations in the Territory on Guam shall be conducted in a manner that
11 prevents accelerated land erosion, transportation of sediment to and along highways, or
12 siltation of rivers, estuaries and marine waters. ~~In conjunction with the project construction~~
13 ~~schedule, the Plan shall indicate the construction sequence of erosion and sedimentation~~
14 ~~control measures.~~

15 2. The area affected by earth-moving operations shall be kept to a minimum by either
16 selective clearing, increment phases of development or other effective means. The Erosion
17 and Sediment Control Plan must contain measures that ensure that each phase of any proposed
18 large development affects less than 20 acres.

19
20 3. All earth-moving operations shall be scheduled during periods of expected low rainfall.

21
22 4. Any earth moving operations authorized under these regulations shall be performed so as
23 not to violate applicable provisions of the latest Guam Water Quality Standards.

24
25 5. No person shall perform any earth moving operation so as to cause falling rocks, soil or
26 debris in any form to fall, slide or flow onto adjoining properties or waters of Guam.

27
28 6. All work areas shall be maintained so as to minimize dust which may cause a nuisance or
29
30
31

1 hazard to others, and in conformance with the Guam Air Pollution Control Standards and
2 regulations.

3
4 7. Where construction equipment will make frequent crossings of a natural drainage course,
5 plans shall provide for temporary culverts or bridge structures to be installed. The required
6 clearances from concerned agencies shall be obtained before any construction of temporary
7 crossing access begins.

8
9 8. The erosion and sedimentation control measures set forth in this section are required, unless
10 the Erosion and Sediment Control Plan shows that the alteration of these measures and
11 facilities or inclusion of other measures and facilities will better prevent accelerated erosion
12 and sedimentation.

13 14 B. Required contents of Erosion and Sediment Control Plans

15 1. Description of the Project.

16 The plan shall include a ~~brief~~ detailed narrative description, with photographs and construction
17 drawings, of the proposed project. ~~Sketches, photographs and construction drawings may be~~
18 ~~used to supplement this description.~~

19 20 2. Project Site Plan.

21
22 a. The necessary information is that which is required in Section 10103.C. Permit
23 Application Contents. ~~A project site plan shall include the data listing in this subsection~~
24 Plan sheet size shall not be smaller than 18 inches x 24 inches and not larger than 30
25 inches x 42 inches. Plan sheet sizes shall not vary .

26
27 ~~(a) Project site vicinity map and north arrow.~~

28
29 ~~(b) Existing land uses and structures.~~

30
31

1 ~~(c) Existing vegetation,~~

2

3 ~~(d) Existing topography at contour intervals of not greater than ten feet~~

4

5 ~~(e) Grading plan at contour intervals of not greater than five feet which extend beyond~~
6 ~~the project site limits so as to adequately depict the off-site drainage pattern for purposes of~~
7 ~~assessing any erosion or its deposition onto other properties.~~

8

9 b. Soil description including: soil classification by USDA Natural Resources Soil
10 Conservation Service “Soil Taxonomy Classification System”; soil erodibility factor;
11 soil permeability and percolation rates; type and extent of out-croppings; depth of
12 soil; capability for establishing vegetation; and coefficient of runoff.

13

14 c. Evaluation of subsurface information. Subsurface investigations shall consist of
15 drilling, excavations, or observations of naturally exposed soil and bedrock exposures
16 at sufficient intervals and depths to indicate the type of material or condition to be
17 encountered at final grading. The person or firm making the investigation shall submit
18 a written report of their findings and recommendations. ~~as described in part (h) below~~
19 This information is required where the stability will be lessened by proposed grading
20 or filling, where any other weaknesses are found, or where any of the following
21 conditions are discovered or proposed:

22

23 i. At locations where a fill slope is to be placed above or a cut slope;

24

25 ii. At proposed cuts exceeding 15 feet in height unless in competent rock as
26 determined by an engineer;

27

28 iii. At locations of proposed fills exceeding 15 feet in height;

29

30

31

- 1 iv. Where sides of hill fills are to be placed on existing slopes steeper than
- 2 15 percent;
- 3
- 4 v. Wherever groundwater from either the grading project or adjoining
- 5 properties is likely to reduce stability;
- 6
- 7 vi. At zones of trapped water or high water table; or.
- 8
- 9 vii. Where the topography is indicative of landslides, as determined by an
- 10 engineer.

11

12 d. Site Assessment. ~~of the Site. The assessment of the site shall determine the need~~

13 ~~for an erosion and sediment control plan by considering~~ Consider the detrimental

14 effects of construction of the site as it pertains to: erosion and loss of sediments; slope

15 stability; water quality; plant communities; wildlife and aquatic life; and condition of

16 marine waters and reef flats which will receive storm water runoff, either directly or

17 indirectly, from the project site.

18

19 3. Grading Plan.

20 It is the purpose of this paragraph to ensure that minimum grading is performed and that

21 natural contours and topography will be retained wherever feasible.

22

23 a. Grading shall be designed and implemented so as to blend in with the surrounding

24 area.

25

26 b. All grading plans and specifications shall show, using contours, cross sections, spot

27 elevations or other means, the condition of the land before and after grading.

28

29

30

31

1 c. The grading plan shall provide information regarding the location and source of
2 imported fill material, and the location for disposal of excess excavation material.

3
4 d. Where a grading activity is to occur in increments or phases, the plan shall also
5 include the plan for future site development and the proposed grading of future
6 increments.

7
8 4. Construction Schedule.

9
10 a. Construction increments shall be described in detail and identified on the project
11 plan.

12
13 b. The schedule will indicate completion dates for each construction increment and
14 the construction sequence of erosion and sediment control measures. ~~shall be~~
15 ~~indicated.~~ Each increment phase of work shall have an approved Environmental
16 Protection Plan and Soil Erosion and Sedimentation Control Plan from the Agency.

17
18 c. The Agency shall check the adequacy of the schedule with respect to short term and
19 long term erosion anticipated on the project site. The construction schedule shall be
20 checked to ensure prompt establishment of protective vegetation with full recognition
21 of climatic and other factors that influence its establishment.

22
23 5. Storm water Drainage System and Control of Site Water Runoff.

24 a. The proposed temporary and permanent, natural and man-made, storm water
25 drainage systems shall be depicted in detail in the drawing plans, including, but not
26 limited to, dimensions, alignments and elevations of all structures as well as the
27 anticipated volume and velocity of the storm water. Design calculations for the
28 drainage systems and siltation basins, best management practices, and other pertinent
29 structures, shall be submitted. The following shall also be provided:

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i. The runoff to be expected during and after the proposed development;

ii. The size of drainage areas above cuts and slopes;

iii. Estimate soil loss volume;

iv. The methods for trapping sediments, reducing erosion of drainage ways, and for controlling the collection and discharge of Storm water during and after construction.

v. *The method and schedule of construction of waterway crossings. Sediment control structures for natural waterways shall be scheduled for installation prior to any earth-moving operations.*

b. Adequate provisions shall be made to prevent surface waters from damaging the cut face of an excavation or the sloped surfaces of a fill. Positive drainage shall be provided to prevent the accumulation or retention of surface water in pits, gullies, holes or similar depressions. All drainage facilities shall be designed to carry surface water runoff to a storm drain that will discharge to a catchment facility within the project site. The Administrator may require such drainage structures and pipes to be constructed or installed, which in his opinion, are necessary to prevent erosion damage and to adequately carry off surface waters. The flow of any existing and known natural underground drainage shall not be impeded or changed so as to cause damage to adjoining property.

~~e. Storm water runoff from areas disturbed by earth-moving operations shall be collected and diverted to facilities for removal of sediment prior to discharge to any surface or marine waters of the Territory.~~

1 c. During construction, all storm sewer inlets shall be protected with silt traps.

2
3 d. If a project to be developed is covered under the Federal Storm water Regulations
4 (40 CFR Parts 122 & 123), a notice of intent to discharge Storm water to surface and
5 marine waters of Guam must be submitted to US Environmental Protection Agency
6 and a copy furnished GEPA. An NPDES permit which authorizes the discharge must
7 also be secured.

8
9 **~~(5) Erosion and Sediment Control Measures.~~**

10 ~~(a) The erosion and sediment control plan shall specify the types, dimensions and~~
11 ~~locations of all temporary and permanent structures, measures (including vegetation), and~~
12 ~~equipment proposed for controlling erosion and sedimentation. Such Plan shall encompass~~
13 ~~the disposal of excavated materials and cleared vegetation.~~

14 ~~(b) In conjunction with the project construction schedule, the Plan shall indicate the~~
15 ~~construction sequence of erosion and sedimentation control measures:~~

16 ~~ⓐ Stabilization of all affected streams, waterways and drainage ways;~~

17
18 e. Structural measures such as berms, dikes, traps, basins, shall be installed prior to
19 any other grading, clearing, or disturbance of the existing surface of the site..

20
21 f. Diversion Terraces

22 i. Diversion terraces shall be constructed up-grade of a project area to convey
23 runoff around the project area. For temporary diversions, the channel shall
24 have capacity to convey 1.6 cubic feet per second per acre of land tributary to
25 it. For permanent diversions, the channel shall have capacity to convey 2.75
26 cubic feet per second per acre of land tributary to it.

27
28 ii. Diversion terraces shall be grassed or lined with erosion resistant material
29 to prevent accelerated erosion within the channel.

30

1 iii. Outlet structures shall be designed to maintain a discharge velocity of less
2 than 2.0 feet per second and all areas affected by the construction activity shall
3 be stabilized before the outlet structures shall be used.

4
5 g. Interceptor Channels.

6 i. Interceptor channels may be used within the project area to reduce the
7 velocity of the flow and thus prevent accelerated erosion.

8
9 ii. Water collected by interceptor channels shall be conveyed to sedimentation
10 basins or to vegetated areas but not directly to streams.

11
12 iii. Outlets to vegetated areas shall be designed to maintain an outlet velocity
13 of less than 2.0 feet per second. Outlet structures shall be screened to lower the
14 amount of suspended solids in the discharge water.

15
16 h. Channels of Conveyance.

17 All channels used to convey water through a project area shall be designed to
18 have a velocity of less than 1.5 feet per second. Where this is not possible, the
19 channel shall be grassed or lined with erosion resistant material.

20
21 i. Sedimentation Basins.

22 i. The basin shall be cleaned when the storage capacity of the basin is reduced
23 to 5,000 cubic feet per acre of project area tributary to the basin.

24
25 ii. Water from a sedimentation basin shall not be discharged to a natural
26 waterway. Designs of sediment basins must provide for enough storage to give
27 time for runoff water to be leached into the ground.

28
29 iii. Outlets of sedimentation basins shall be screened and designed in a manner
30

1 which does not discourage regular maintenance.

2
3 iv. Sedimentation basins shall be structurally sound and properly secured
4 to protect them from unauthorized acts of third party activities.

5
6 6. Cut and fill measures

7 a. The conditions of the following subsections may be modified by the Administrator
8 based on a supportive engineer's soils report, and receipt of approvals from the owner
9 and concerned agencies:

10
11 i. Height. Where a cut or fill is greater than 15 feet in height, terraces, or
12 benches shall be constructed at vertical intervals of 15 feet except where only
13 one bench is required, the single bench shall be constructed at the midpoint.
14 The minimum width of such terraces or benches shall be at least 18 feet and
15 provided with drainage provisions to control erosion on the slope and face and
16 bench surface.

17
18 ii. Cut Slopes. Under the following conditions, no cut may be steeper in slope
19 than the ratio of its horizontal to its vertical distance as shown below:

20 (a) 2 horizontal to 1 vertical in unweathered rock or mudrock;

21
22 (b) 2 horizontal to 1 vertical in decomposed rock; or

23
24 (c) 2 horizontal to 1 vertical in soils of low plasticity for cuts of any
25 height in highly plastic soils. The engineer's soils report shall include
26 the recommended slope design, and design calculations necessary to
27 demonstrate slope stability.

1 iii. Fill slopes shall not be steeper than the ratio 3 horizontal to 1 vertical
2 except that fill using highly plastic clays shall have slopes specifically
3 recommended in the engineer's soils report signed by a professional civil
4 engineer, and approved by the owner. The engineer's soils report shall include
5 the recommended slope design, and design calculations necessary to
6 demonstrate slope stability.

7
8 b. Fill material shall be selected to meet the requirements and conditions of the
9 particular fill for which it is to be used. The fill material shall not contain vegetation
10 or organic matter. Where rocks, concrete, or similar materials of greater than 8 inches
11 in diameter are incorporated into the fill, they shall be placed in accordance with the
12 recommendation of the professional civil engineer.

13
14 c. Before placing fill or stockpiling, the natural ground surface shall be prepared by
15 removing the vegetation and, shall be notched by a series of benches and/or subsurface
16 drains installed.

17
18 d. No fill shall be placed over any waters of Guam (e.g.; spring, marsh, wetlands),
19 refuse dumps, or soft, soggy or springy foundations. The plan must highlight possible
20 wetland characteristics on the site and adjacent properties.

21
22 e. Fill materials shall be spread and compacted in a series of eight (8) inch to ten (10)
23 inch layers, unless otherwise recommended by the professional civil engineer. For
24 slopes, the fill shall be compacted to ninety five (95) percent maximum density as
25 determined by the most recent ASTM Soil Compaction Test D1557. The engineer's
26 soils report shall include the recommended slope design, and design calculations
27 necessary to demonstrate slope stability.

28
29 f. Distance from property line. The following requirements may be modified by the
30 Administrator when cuts or fills are supported by retaining walls or when the permittee

1 submits an engineer's soils report stating that the soil conditions will permit a lesser
2 horizontal distance without causing damage or danger to the adjoining property. The
3 engineer's soils report shall include the recommended slope design, and design
4 calculations necessary to demonstrate slope stability.

5
6 The horizontal distance from the top of a cut slope or the bottom of a fill
7 slope to the adjoining property line shall not be less than as follows:

8

9 Heights of cut or fill	Distance from property line (in feet)
10 Zero feet to 4 feet	4
11 More than 4 feet to 10 feet	6
12 More than 10 feet to 15 feet	8
13 More than 15 feet	10

14

15 7. Maintenance Procedures.

16 a. A maintenance program for the erosion and sedimentation control structures and
17 facilities shall be established. ~~Such~~ The program shall include ~~periodic~~, but not be
18 limited to, a schedule for inspecting the facilities and for removing and disposing
19 ~~inspection schedule of the facilities, schedule of removal and disposal~~ of sediment
20 materials from the control structures, or project area, and specific ~~assignment~~ duties
21 of the designated maintenance personnel.

22
23 b. If the original owner has sold the property, the subsequent owner shall be
24 responsible for maintaining the permanent measures that have been installed on the
25 property.

26
27 8. Disposal of Spoil Materials.

28 The information concerning the disposal of spoil materials shall include the following: type
29 of spoil material; location of disposal area; method for processing and disposing of spoil
30

1 materials; procedures for preventing soil loss to adjacent watercourses; and, if intending to
2 burn spoil materials, burning procedures for combustible spoil material. Burning requires a
3 permit from the Guam Fire Department;

4
5 9. Stockpiles.

6 The following information shall be provided: source of stockpile material; location, slope, and
7 height of stockpile; duration that the material is to be stockpiled; provisions to prevent
8 erosion and sediment loss from rain and wind action; plan for removing stockpiles at project
9 completion.

10
11 10. Stabilization of Affected Areas

12 a. Stabilization of slopes, channels, ditches, berms, diversions, silt dams, or any
13 disturbed areas shall begin as soon as possible and no later than 30 calendar days after
14 the final grade or final earth-moving activities has been completed.

15
16 b. Electric power, and telephone trenches are to be stabilized as soon as possible and
17 no later than 30 days after backfill.

18
19 c. Stabilization of stream banks shall be scheduled during periods of expected low
20 rainfall.

21
22 ~~b. Temporary stabilization measures shall be defined for implementation in the~~
23 ~~event that delays occur during earth-moving operations and until such time that~~
24 ~~permanent stabilization measures are in place.~~

25
26 d. Where it is not possible to permanently stabilize a disturbed area immediately after
27 the final earth-moving has been completed or where the activity ceases for more than
28 30 calendar days, interim or temporary stabilization measures shall promptly be
29 implemented and enforced.

30

1 e. Any disturbed area not paved, sodded or built shall be seeded and mulched with
2 vegetative cover appropriate to the soil type, as recommended by an engineer, or the
3 condition of the area based on soil test analysis done by a laboratory. This condition
4 does not prohibit the use of matting, gabion, armor coating on erodible surfaces or
5 other type of vegetative cover that will minimize erosion.

6
7 ~~g. All facilities which are authorized by an Erosion and Sediment Control Plan and~~
8 ~~which are necessary to protect areas from erosion during the stabilization period shall~~
9 ~~be properly maintained until such stabilization is complete.~~

10
11 f. All structural sediment control measures are to remain in place until permission for
12 their removal has been obtained from the Agency.

13
14 ~~4. No graded area shall remain in an unstabilized condition for longer than or longer~~
15 ~~than authorized by its approved Erosion Control Plan.~~

16
17 ~~5. In the event that earth-moving operations are discontinued or delayed, graded~~
18 ~~areas shall receive interim, or temporary cover~~

19
20 ~~6. All areas disturbed by earth-moving operations, including slopes, channels, ditches,~~
21 ~~banks, must be stabilized as soon as possible after the final grade has been established~~

22
23 11. Protection and Removal of Native Vegetation.

24 a. In order to protect native vegetation from construction impacts, the following
25 information shall be provided: location and description of native vegetation whose root
26 zone will be affected by compaction, fills, trenches, and changes in the groundwater
27 table; measures which will prevent conditions damaging to vegetation; and criteria
28 used to determine removal;

29
30

1 b. Whenever feasible, natural vegetation should be retained. If their removal is
2 necessitated, they shall not be stored or deposited along banks of streams, rivers or
3 natural water courses. after being uprooted, or displaced from the ground by
4 excavation, clearing or grubbing. Removed vegetation shall be disposed of at a
5 disposal site approved by the Administrator, and removed from the site within a
6 reasonable time, not to exceed one (1) month from date of removal.

7
8 12. Establishment of Vegetation

9 a. Where the establishment of vegetation is required on slopes of cut and fill, graded
10 areas, and watercourses, etc., the following information shall be provided :

11
12 I. Location and areas to be vegetated;

13
14 ii. An indication of whether vegetation is to be temporary or permanent;

15
16 iii. Type and quantity of seeds or plants;

17
18 iv. Ground conditions, including: soil surface condition, pH, permeability, size
19 distribution, slope angle, slope length, and aspect, nutrients;

20
21 v. Type and quantity of mulch;

22
23 vi. Type and quantity of fertilizer;

24
25 vii. Method and schedule of seeding, mulching, planting, and fertilizing;

26
27 viii. Irrigation schedule.

28
29
30

1 b. The plan shall provide for the revisiting of the location every three (3) months to
2 verify that vegetation has been successfully established. If not successful the site must
3 be revegetated until the area ~~returns to its pre-existing condition substantially~~. is
4 successfully revegetated.

5
6 13. Certification. The Plan shall be stamped and signed by ~~a professional civil or~~
7 ~~environmental~~ an engineer. ~~holding current Guam registration in the Territory.~~

8
9 **Section 10106. Special Requirements.**

10
11 A. Protection of adjoining properties.

12 Any person performing or causing to be performed any excavation or fill shall, at his own
13 expense, provide the necessary means to prevent the movement of earth to the adjoining
14 properties, and to maintain the existing natural grade of adjoining properties.

15
16 B. Protection of public utilities.

17 Any person performing or causing to be performed any excavation or fill shall be responsible
18 for the maintenance or restoration of street pavements, sidewalks and curbs, and improvements
19 of public utilities which may be affected. Such maintenance shall be in accordance with the
20 requirements of the Department of Public Works, Government of Guam agencies and affected
21 public utilities. At cuts fronting any street, a suitable and adequate barrier shall be installed
22 to provide protection to the public.

23
24 C. Removal of silt or other debris.

25 Any person depositing or causing to be deposited, any silt or debris in ditches, water courses,
26 drainage facilities, and public roadways, shall remove such silt or other debris. In case such
27 person shall fail, neglect or refuse to comply with the provisions of this section within 48
28 hours after written notice served upon him, either by mail or by personal service, the
29 Administrator may proceed to remove the silt and other debris or to take any other action he
30

1 deems appropriate. The costs incurred for any action taken by the Administrator shall be
2 payable by such person.

3

4 D. Safety precautions.

5 At any stage of the grading, grubbing, or stockpiling, if the Administrator finds that further
6 work as authorized by an existing permit is likely to create soil erosion problems or to
7 endanger life, limb or property, he may require safety precautions. These precautions may
8 include but are not limited to: flattening exposed slopes; constructing additional silting or
9 sediment basins, providing drainage facilities or benches; removing rocks, boulders, debris and
10 other dangerous objects which, if dislodged, are likely to cause injury or damage; or
11 constructing fences or other suitable protective barriers.

12

13 E. Creation of individual building sites.

14 Hillside lots shall be graded in such a manner that any parcels which may be created, including
15 all separate building sites which may be contained within said parcels, can be satisfactorily
16 graded and developed as individual building sites.

17

18 F. Protection of Sink Holes:

19 Earth-moving operations shall not be performed in sink holes or in such close proximity as to
20 threaten their viability, function or the conveyance of surface water into such features unless
21 specifically authorized by the administrator. In the event a developer proposes to modify or
22 use a sinkhole, an environmental and hydrogeologic assessment must be performed to ensure
23 adverse affects will not result, including but not limited to the displacement of groundwater,
24 interference with well production, significant changes to groundwater recharge, flooding, or
25 the threat or introduction of any pollutant to groundwater, regardless of zone or category.

26

27 **Section 10107 Project Completion** ~~III. Minimum Conditions of an Erosion and Sediment~~
28 ~~Control Plan~~

29 A. Products to be submitted.

30 1. As-built / graded plan, prepared by an engineer or land surveyor, upon completion of an

- 1 earth-moving operation covering an area of greater than one (1) acre;
2
- 3 2. Soils report, when earth moving operations involve cuts or fills for which an engineer's
4 soils report is required. The report shall contain:
5
- 6 a. A description of materials used in the fill and its moisture content at the time of
7 compaction;
 - 8 b. The procedures used in depositing and compacting the fill;
- 9
- 10 3. A description of the preparation of the original ground surface before making the fill, but
11 not limited to benching and subsurface drainage;
12
- 13 4. A plan or tabulation showing the general location and elevation of compaction tests
14 made in the fill together with a tabulation of relative compaction densities obtained at each
15 location, the location of sub-drains, and other pertinent features of the fill necessary for its
16 stability; and
17
- 18 5. Certification that the work was done in conformity with these regulations, the approved
19 plans and specifications, and the engineer's soils report.
20

21 B. Final inspection and approval.

22 The permittee or his agent shall notify the Administrator or his representative when the earth-
23 moving operation is ready for final inspection. Final approval shall not be given until all
24 approved work has been completed. Final approval shall be dependent on installation of all
25 drainage structures and their protective devices, establishment of a healthy vegetation growth
26 in conformance with the approved plans and specifications, and submittal of any required
27 reports.
28

29 ~~(a) Planning policies for control of Erosion and Sediment Control Plan.~~
30

1 ~~1. All earth-moving operations in the Territory on Guam shall be conducted in a~~
2 ~~manner that prevents accelerated land erosion, transportation of sediment to and along~~
3 ~~highways, siltation or rivers, estuaries and marine waters.~~

4 ~~2. The area affected by earth-moving operations shall be kept to a minimum by either~~
5 ~~selective clearing, increment phases of development or other effective means.~~

6 ~~3. All earth-moving operations shall be scheduled during periods of expected low~~
7 ~~rainfall.~~

8 ~~4. No graded area shall remain in an unstabilized condition for longer than thirty 30~~
9 ~~calendar days or longer than authorized by its approved Erosion Control Plan.~~

10 ~~5. In the event that earth-moving operations are discontinued or delayed, graded~~
11 ~~areas shall receive interim, or temporary cover, which is acceptable to the Agency,~~

12 ~~6. All areas disturbed by earth-moving operations, including slopes, channels, ditches,~~
13 ~~banks, must be stabilized as soon as possible after the final grade has been established~~

14 ~~7. Storm water runoff from areas disturbed by earth-moving operations shall be~~
15 ~~collected and diverted to facilities for removal of sediment prior to discharge to any surface~~
16 ~~or marine waters of the Territory~~

17 ~~8. All facilities which are authorized by an Erosion Control Plan and which are necessary~~
18 ~~to protect areas from erosion during the stabilization period shall be properly maintained until~~
19 ~~such stabilization is complete.~~

21 **Section 10108. Permit Fees.**

23 **A. Applicability.**

24 All applicants (e.g.; private individuals, federal agencies, and Government of Guam agencies
25 or departments, including autonomous and semi-autonomous agencies) for earth-moving
26 operations permits, shall pay required permit fees.

28 **B. Grading permits.**

29 1. Before issuing a grading permit clearance, the Administrator shall collect site grading plan
30 review fees based on the volume of excavation or fill measured in place according to the

1 following schedules:

2

3 TABLE A - GRADING PLAN REVIEW FEES

4

5 50 cubic yards or less ----- No Fee

6

7 51 to 100 cubic yards ----- \$15.00

8

9 101 to 1,000 cubic yards ----- \$22.50

10

11 1,001 to 10,000 cubic yards -- ----- \$30.00

12

13 10,001 to 100,000 cubic yards ----- \$30.00 for the first 10,000 cubic yards,
14 plus \$15.00 for each additional 10,000 cubic yards or fraction thereof.

15

16 100,001 to 200,000 cubic yards ----- \$165.00 for the first 100,000 cubic
17 yards, plus \$9.00 for each additional 10,000 cubic yards or fraction thereof.

18

19 200,001 cubic yards or more ----- \$225.00 for the first 200,000 cubic
20 yards, \$4.50 for each additional 10,000 cubic yards or fraction thereof.

21

22 2. The fee for a grading permit authorizing additional work to that under a valid permit shall
23 be the difference between the fee paid for the original permit and the fee shown for the entire
24 project.

25

26 C. Fees for additional plan reviews.

27 Additional plan reviews required for any changes, additions or revisions to approved plans are
28 \$30.00 per hour, or the total hourly cost to the jurisdiction, whichever is the greatest. This cost

29

30

1 shall include those associated with supervision, overhead, equipment, hourly wages and fringe
2 benefits of the employees involved.

3

4 D. Clearing and grubbing permits.

5 Before issuing a clearing and grubbing permit clearance, the Administrator shall collect a
6 clearance fee of \$20.00 for clearing & grubbing areas greater than 15,000 square feet plus
7 \$2.00 per each additional 1,000 square feet or fraction thereof. No fee shall be charged for
8 clearing and grubbing less than 15,000 square feet.

9

10 E. Stockpiling permits.

11 Before issuing a stockpiling permit clearance, the Administrator shall collect a permit
12 clearance fee of \$7.50 for stockpiling in excess of the 100 cubic yards, plus \$1.50 for each
13 additional 100 cubic yards or fraction thereof.

14

15 F. Work occurring without a permit.

16 Where work for which a permit is required by these regulations has commenced or has been
17 accomplished without a permit, a permit shall be obtained, and two times the fees specified
18 above shall be assessed, provided that such work complies with or may be made to comply
19 with the requirements of these regulations. If the grading/clearing/ stockpiling/ grubbing work
20 accomplished or commenced cannot be made to comply with the provisions of these
21 regulations, the person or persons responsible for the initiation or accomplishment of such
22 grading work shall restore the land to its original condition and shall obtain a certificate of
23 completion thereof from the Administrator. Notwithstanding the above, the person or persons
24 responsible for such grading/clearing/ grubbing/stockpiling shall be deemed to have violated
25 the provisions of these regulations by performing such activity/ies without a permit.

26

27 G. Water Protection Fund.

28 All permit fees, monetary charges, fines, and penalties assessed, collected or received by
29 GEPA pursuant to this regulation and other regulations promulgated under the Water Pollution

30

1 Control Act, as well as contributions and assets made for the purpose of improving water
2 quality or preventing water pollution shall be deposited into the Water Protection Fund. The
3 Water Protection Fund shall be established as separate and apart from any other funds of the
4 Government of Guam, and shall be administered by the Administrator. Independent records
5 and accounts shall be maintained in connection therewith. The funds shall be used for the
6 administration and implementation and enforcement of the Water Pollution Control Act and
7 regulations promulgated from said Act, for educational programs and grants for research and
8 development, advertisement promotions, and inspections of facilities to prevent or minimize
9 erosion that contributes to pollution of the waters.

10

11 **Section 10109. Permit Expiration.**

12

13 A. Grading, clearing and grubbing and stockpiling permits.

14 All grading, clearing and grubbing or stockpiling permits shall expire and become null and
15 void under the following circumstances:

16

17 1. If permitted work is not started within 180 calendar days after the date of issuance of the
18 permit; or

19

20 2. If work is suspended or abandoned any time after the work is commenced for a minimum
21 period of 60 days; or

22

23 3. If work is continued without interruption for one year, beginning with the date of issuance
24 of the permit, or is completed within the time frame provided in the approved permit
25 application, whichever comes first.

26

27 B. Stockpiling permits.

28 Every stockpiling permit shall expire and become null and void one year after the date of
29 issuance. Prior to the expiration of the stockpile permit, all stockpiled material temporarily

30

1 stored on the premises shall be removed from the premises or used on the premises as fill
2 material under a grading permit for fill.

3

4 C. Permit expiration.

5 Once a permit has expired, the owner/applicant shall pay the required fees and obtain a new
6 permit pursuant to these regulations, before beginning new work. If the owner begins work
7 with obtaining a new permit, the owner shall pay the necessary penalty fees pursuant to these
8 regulations.

9

10 **Section 10110. Stop Work Order.**

11 A. Unacceptable conditions.

12 Whenever the Administrator determines that any permitted clearing & grubbing, grading, or
13 stockpiling is or may become unstable or dangerous, endangers property, adversely affects the
14 safety, use, or stability of a public way or drainage channel, or results in a violation of the
15 Guam Water Quality Standards, the owner of the property, or other person or agent in control
16 of the property, on receipt of notice in writing from the Administrator, shall abate the danger,
17 implement necessary corrective measures, and shall conform with the requirements of these
18 regulations. The Administrator, or his authorized representative, shall have the authority to
19 enter the property and investigate, and enforce the provisions of this section. A hearing will
20 be held as required under 10 GCA Section 47109.

21

22 B. Stop work order procedures.

23 If the Administrator determines that the work must stop due to unstable or dangerous
24 conditions, the Administrator shall issue a stop work order to the owner/contractor of the
25 property and transmit a copy of the order to the Department of Public Works Building Permit
26 Section. Both GEPA and the Department of Public Works shall jointly enforce the stop work
27 order.

28 C. Work occurring without a permit.

29 Notwithstanding the above, if an earth-moving operation is occurring without a valid permit
30 the Agency can order the operation to immediately cease and either require the violator to

1 obtain an after the fact permit, or if the operation cannot be permitted, to have the violator take
2 corrective measures to return the land to its previous condition.

3

4 **Section 10111. Suspension or revocation of Permit.**

5

6 A. Criteria for suspending or revoking permits.

7 The Administrator shall, in writing, suspend or revoke a permit issued under the provisions
8 of these regulations whenever: the permit has been issued on the basis of incorrect information
9 supplied by the permittee; existing site conditions are found not to be in accordance with the
10 terms and conditions of the permit; it is determined that the permittee has not complied with
11 a provision of any other applicable law, ordinance rule or regulation of the Guam; the clearing
12 and grubbing, grading or stockpiling discloses conditions that are objectionable or unsafe; or
13 an immediate danger exists in a downstream/adjacent area.

14

15 B. Process for recommencing work.

16 When a permit has been suspended the permittee may submit details and proposals for
17 compliance with the provisions of these regulations, and any other applicable laws, rules or
18 regulations of Guam. Upon approval of such plans and proposals by the Administrator, the
19 Administrator shall authorize the permittee, in writing, to proceed with the work.

20

21 C. Non-compliance

22 Non-compliance with the correction notice or stop work order issued for the construction of
23 the sediment and erosion control practices, and/or the construction of storm water management
24 facilities may result in the revocation of the issued permit.

25

26 **Section 10112. Inspections.**

27

1 A. Access to the site.

2

3 Each permit issued under these regulations shall be deemed to include the right of the
4 Administrator or his authorized representative to enter at reasonable time upon any property
5 to inspect the clearing and grubbing, grading, or stockpiling operations. Such inspections may
6 take place before, during and after any earth change activity for which a permit has been
7 issued to ensure that control measures are properly installed or performed and maintained at
8 the expense of the applicant.

9

10 **Section 10113. Enforcement.**

11 A. Corrective Measures.

12 If the Agency determines that a person is conducting operations ~~in a~~ which ~~is~~ are causing or
13 ~~is~~ are likely to cause pollution, the Administrator may order the owner or operation to take
14 ~~of~~ corrective measures needed to prevent or cease the pollution.

15

16 B. Stop Work Order.

17 If the operation is causing or is likely to cause alteration of physical, chemical, or biological
18 properties to the waters of Guam, resulting from sediment, deposition presenting an imminent
19 and substantial danger to the public health, safety or welfare, or the health of animals, fish or
20 aquatic life, to a public water supply or to other reasonable uses of water, the Administrator
21 can issue an order requiring the cessation of relevant activities and implementation of
22 corrective measures. In emergency situation, any order issued by the Administrator shall
23 become final no later than 24 hours after the date of the notice and order served.

24

25 C. Voluntary compliance.

26 Nothing in these regulations shall prevent the Agency from making efforts to obtain voluntary
27 compliance through warning, conference or any other appropriate means.

28

29 D. Permit violations.

30 Whenever the Agency has reason to believe that a violation of any Section of these regulations

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has occurred, it shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of these regulations alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a specified time. Any such order shall become final unless, no later than fifteen (15) days that after the date of the notice and order served, the person or persons named therein request in writing a hearing before the Agency. Upon such a request, the Agency shall hold a hearing. In lieu of an order, the Agency shall require that the alleged violator or violators appear before the Agency for a time and place specified in the notice and answer the charges complained of, or the Agency may initiate action pursuant to Section 10114 of these regulations.

E. Corrective actions from Hearing.

If, after a hearing is held pursuant to this Section, the Agency finds that a violation or violations have occurred, it shall affirm or modify the order previously issued or issue an appropriate order or orders for the prevention, abatement, or control of the erosion or sedimentation involved or for the taking of such other corrective action as may be appropriate. If, after hearing on an order contained in a notice, the Agency finds that no violation has occurred or is occurring, it shall rescind the order. Any order issued as part of a notice or after hearing may prescribe the date or dates by which the violation or violations shall cease and may prescribe timetables for necessary action in preventing, abating, or controlling soil erosion.

F. Court Appeal.

No later than ~~ten (10)~~ fifteen (15) days after the issuance of the final order of the Agency, an appeal to the Superior Court of Guam may be made against any decision of the Agency by any person who is or may be adversely affected thereby.

1 G. Corporate Liability:

2 (a) A corporation may be found liable or convicted for (1) any violation or offense committed
3 in furtherance of its affairs on the basis of conduct performed, authorized, requested,
4 commanded or recklessly tolerated by (A) the board of directors; (B) a managerial agent acting
5 in the scope of his employment; or (C) any other person for whose conduct the statute defining
6 the violation or offense provides responsibility; (2) failure to perform a duty imposed by law;
7 (3) any violation or offense committed by an agent of the corporation acting in the scope of
8 his employment in furtherance of its affairs. (b) As used in this section, managerial agent
9 means an agent of the corporation having duties of such responsibility that his conduct may
10 fairly be found to represent the policy of the corporation.

11
12 H. Emergency Procedures.

13 1. Any other provisions of law to the contrary notwithstanding, if the Administrator finds that
14 a generalized condition of pollution exists, and that it creates an emergency requiring
15 immediate action to protect the intended uses of the water as designated in the Standards of
16 Water Quality for Waters of Guam, or to protect human health or safety, the Administrator,
17 with the concurrence of the Governor, shall order persons causing or contributing to the
18 pollution to reduce or discontinue immediately the pollutants, and such order shall fix a place
19 and time, not later than twenty-four (24) hours thereafter, for a hearing to be held before the
20 Agency. Not more than twenty-four (24) hours after the commencement of such hearing, and
21 without adjournment thereof, the Agency shall affirm, modify or set aside the order of the
22 Administrator.

23
24 2. In the absence of a generalized condition of pollution of the type referred to in Subsection
25 (1), but if the Administrator finds that pollutants from the operation of one or more polluting
26 sources is causing imminent danger to the intended uses of the water as designated in the
27 Standards of Water Quality for Waters of Guam or is causing imminent danger to human
28 health or safety, he may order the person or persons responsible for the operation or operations
29 in question to reduce or discontinue pollutants immediately, without regard to the provision
30 of Subsection (a) of §47109, Chapter 47, 10 GCA of this Act. In such event, the requirements

1 for hearing and affirmance, modification or setting aside of orders set forth in Subsection (1)
2 of this Section apply.

3
4 **Section 10114. Penalties, Liability, and Severability Clause**

5 A. Penalties:

6 (a). Field citations - Any person violating the Water Pollution Control Act or these
7 regulations may be served by the officer or inspector with a pollution citation. Water
8 Pollution citation violations shall be settled by amount of no less than \$ 150 per violation and
9 not more than \$3,000 per violation. Cost to take corrective action and community service in
10 lieu of all or a portion of the fine may be accepted by the Board. The Agency will establish
11 a scale amount to assist in determining the penalty amount for settlement. The Board must
12 hold a public hearing to establish and notify the public of the monetary citation fines under this
13 subsection before fines can be imposed. The citation will provide that the violator can request
14 a hearing with the Guam Environmental Protection Agency Board of Directors (the "Board").
15 The Board can impose a fine up to \$3,000 per violation noted in the citation. Costs of
16 corrective action and community service in lieu of all or a portion of the fine may be accepted
17 by the Board. Fines imposed and collected under this Section will be deposited into the Water
18 Protection Fund. Judicial review may be had of any Board decision by any party affected
19 adversely by it. If the Board decision is not in accordance with law or not supported by
20 substantial evidence, the court shall remand the Board to take action according to law or the
21 evidence.

22
23 (b) Administrative - Whenever on the basis of any information available the Administrator
24 reasonably determines that any person has violated the provisions of this rules and regulations
25 or a lawful order, or has violated any permit condition or limitation, the Administrator may
26 assess a civil penalty that may not exceed \$10,000 per day per violation that the violation
27 continues, except that the maximum amount of any civil penalty under this section shall not
28 exceed \$125,000.

29 (1) Before issuing an order assessing a civil penalty, the Administrator shall give to the
30 person to be assessed such penalty, written notice of the Administrator's proposal to issue

1 such order and the opportunity to request, within 30 days of the date the notice is received
2 by such person, a hearing on the proposed order. Hearing will be conducted as provided
3 under the Administrative Adjudication Law (AAL). In lieu of an order, the Agency may
4 require that alleged violator or violators appear before the Agency for a hearing at a time
5 and place specified in the notice and answer the charges complained of, or the Agency
6 may initiate action pursuant to Section 10114 of this regulations.

7
8 (a) If, after a hearing held pursuant to the AAL, the Board finds that a violation or
9 violations have occurred, it shall affirm or modify the order previously issued or issue an
10 appropriate order or orders for the for the prevention, abatement, or control of the
11 pollution or discharges involved or for the taking of such other correction action as may
12 be appropriate.

13
14 (b) If, after hearing on an order contained in a notice, the Board finds that no violation has
15 occurred or is occurring, it shall rescind the order.

16
17 (c) Any order issued as part of a notice or after hearing may prescribe the date or dates by
18 which the violation or violations shall cease may prescribe timetables for the necessary
19 action in preventing, abating or controlling the pollution or discharge.

20
21 (2) In determining the amount of any penalty assessed, the Administrator shall take into
22 account the nature, circumstances, extent and gravity of the violation or violations and
23 with respect to the violator, ability to pay, any prior history of such violations, the degree
24 of culpability, economic benefit or savings if any resulting from the violation, and such
25 other matters as justice may require.

26
27 (3) If any person fails to pay an assessment of a civil penalty after the order making the
28 assessment has become final, or after a court in an action has entered a final judgement
29 in favor of the Administrator, the Administrator shall request the Attorney General to
30 bring a civil action to recover the amount assessed. In such an action, the validity,

1 amount, and appropriateness of such penalty shall not be subject to review.

2
3 (4) The Administrator may settle, modify or release, with or without conditions, any
4 administrative penalty which may be imposed under this section.

5
6 B. Liability.

7 The provisions of these regulations shall not be construed to relieve or alleviate the liability
8 of any person for damages resulting from performing, or causing to be performed, by grading,
9 grubbing or stock-piling operation. The Government of Guam, GEPA, its officers and
10 employees shall be free from any liability, cost or damage which may accrue from any
11 grading, grubbing or stockpiling or any work connected therewith, authorized by these
12 regulations.

13
14 C. Severability Clause.

15 If any provisions of these rules, or its application to any person or circumstances, is held
16 invalid, the application of such provision to other persons or circumstances, and the remainder
17 of these rules, shall not be affected thereby.

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MINA 'BENTE SINGKO NA LIHESLATURAN GUAHAN
2000 (SECOND) REGULAR SESSION

ACKNOWLEDGEMENT RECEIPT

Bill No. 392(LS)

Received by: [Signature]

Time: 5:10 P

Date: 4/24/2000

Introduced by:

J.M.S. Brown [Signature]

**AN ACT TO ESTABLISH THE GUAM ENVIRONMENTAL
PROTECTION AGENCY (GEPA) GUAM SOIL EROSION AND
SEDIMENTATION CONTROL REGULATIONS**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** In accordance with the
3 Administrative Adjudication Law, §9303 of Title 5 of the Guam Code Annotated, as
4 amended by Public Law Number 24-27, on December 10, 1997 the Guam
5 Environmental Protection Agency (GEPA) transmitted to I Liheslaturan Guahan, the
6 "*Guam Environmental Protection Agency Guam Soil Erosion and Sedimentation*
7 *Control Regulations.*" I Liheslaturan Guahan agrees with the regulations as
8 presented and seeks to approve said regulations.

9 **Section 2. Approval of GEPA Regulations.** I Liheslaturan Guahan hereby
10 approves the GEPA rules and regulations entitled, "*Guam Environmental Protection*
11 *Agency Guam Soil Erosion and Sedimentation Control Regulations,*" which were
12 transmitted to I Liheslaturan Guahan on January 25, 2000.

13 **Section 3. Severability.** If any provision of this Law or its application to any
14 person or circumstance is found to be invalid or contrary to law, such invalidity shall
15 not affect other provisions or applications of this Law which can be given effect
16 without the invalid provisions or application, and to this end the provisions of this
17 Law are severable.

EXHIBIT A

GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS

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1 GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS
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5 22 GAR - GEPA
6 Division II - Water Control
7

8 CHAPTER 10
9 GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS
10
11

12 **Section 10100. Authority**
13

14 10 GCA Chapter 47 - "Water Pollution Control Act."
15

16 **Section 10101. General Provisions: Purpose, Scope, Applicability and Exemptions.**
17

18 **A. Purpose.**

19 Whereas soil erosion and sedimentation resulting from the construction of sub-divisions,
20 industrial and commercial developments, highways and other activities requiring excavation
21 and filling can affect the purity of wetlands, streams and marine waters on Guam and thereby
22 may cause unreasonable damage to aquatic and marine life in general; and whereas, the
23 pollution of wetlands, streams and marine waters must be controlled to ensure a reasonably
24 clean environment for the People of Guam; and whereas, the Guam Environmental Protection
25 Agency has been vested with the responsibility to maintain at all times a high quality of
26 environment to guarantee an enjoyable life for all people at present and in the future; and,
27 whereas, the environmental degradation of the quality of land, water and air by any pollutants,
28 including all physical, chemical and biological agents, should not be allowed; and, whereas,
29 the Guam Environmental Protection Agency has been vested with the responsibility to
30 conserve surface and groundwater resources and to protect, maintain and improve the quality
31 and potability thereof; it is declared ~~to be~~ that the purpose of these regulations is to control
32 accelerated soil erosion, ~~and the resulting sedimentation of the waters of the Territory thereby~~

1 preventing the pollution of Guam's waters from fertilizers, pesticides, sediments and other
2 polluting substances carried by sediment, and to protect property and to promote the public
3 health, safety and welfare by regulating grading, clearing, grubbing and stockpiling, and by
4 setting minimum standards for erosion and sedimentation control for the Island of Guam.

5
6 It is also the purpose of these regulations to manage nonpoint source pollution consistent with
7 the latest "Guam Nonpoint Source Program", the "Guam Erosion & Sedimentation Manual"
8 guidelines and recommendations, the comprehensive approach set forth in Section 6217 of the
9 Coastal Zone Act Reauthorization Amendments of 1990, "Protecting Coastal Waters",
10 codified as 16 U.S.C. §1455(b), and the "Guidance Specifying Management Measures for
11 Sources of Nonpoint Pollution in Coastal Waters" (EPA/840-B-92-002, dated January 1993)
12 issued under the authority of Section 6217(g) of the Coastal Zone Act Reauthorization
13 Amendments of 1990 recommendations.

14
15 B. Scope.

16 The provisions of these regulations impose requirements on those earth-moving activities
17 which create accelerated erosion or a danger of accelerated erosion and which require planning
18 and implementation of effective soil conservation measures. These regulations set forth
19 requirements for the control of grading, clearing and grubbing, and stockpiling, set limits for
20 erosion and sedimentation, establish administrative procedures and minimum requirements
21 for issuance of permits and provide for the enforcement of such rules and regulations.

22
23 C. Applicability.

24 These regulations apply to all clearing, grubbing, grading, embankment or filling, excavating,
25 stockpiling or other earth-moving operations on Guam which require a permit as provided for
26 in 21 Guam Code Annotated, Chapter 66 (as amended). Such applicable clearing or
27 earth-moving operations include those performed by private and governmental sectors,
28 including, the Government of Guam and federal agencies on Guam. The Administrator shall
29 review every application for a permit for earth-moving operations in order to determine

1 applicability or exemption, as provided for in Section, Sub-Section D, below.

2
3 D. Exemptions.

4 An application for a clearing, grubbing, grading, embankment or filling, excavating or other
5 earth-moving activity shall be submitted to the Agency for review, and approved before the
6 activity is started. The following earth-moving activities may be exempted from these
7 regulations if the Administrator, in writing, determines that the scope or size of the activity
8 will not create either an erosion or other hazard to surface or marine waters of Guam:

9
10 ~~1) A clearing, grading, filling, excavating or other earthmoving activity may be~~
11 ~~exempted from these regulation by the Administrator if, in his discretion, he determines in~~
12 ~~writing that the scope, or size of such earth-moving activity does not require compliance with~~
13 ~~these regulations~~

14 ~~2) The following earth-moving activities and operations are exempt from these regulations~~
15 ~~except in cases where the Administrator, in his discretion, determines that these regulations~~
16 ~~shall apply.~~

17
18 1. Clearing, grading and filling for the purpose of constructing a house, pad or driveway for
19 a one-or two-family residence;

20
21 2. Grading in an isolated, self contained area; provided there is no apparent danger of erosion;

22
23 3. An excavation for basements, footings, retaining walls or other structures which are
24 authorized by a valid building permit. Such exemption exemptions shall not include any
25 excavation where dewatering is undertaken, nor any fill is made with the excavated material,
26 nor or any unsupported excavation of more than five feet deep which is excavated after the
27 completion of such structures.

28
29 4. Clearing & grubbing individual cemetery graves or plots without using heavy equipment.

- 1 5. Excavations for wells, tunnels or utilities, which are permitted under different rules &
2 regulations.
3
- 4 6. Exploratory excavations for wells or for the purpose of soils testing, provided that no
5 clearing and grubbing or grading is to be performed; otherwise a permit is required.
6
- 7 7. Any excavation which is less than two feet in depth or which creates a cut slope less than
8 five feet in height and no steeper than a slope ratio of 1-1/2 horizontal to 1 vertical for
9 coralline type soil and 3:1 slope for clay type soil, provided that all slopes and open areas are
10 stabilized and vegetated.
11
- 12 8. Any fill which is less than one foot in height and placed on undisturbed terrain with
13 existing topography of a ratio less than 5 horizontal to 1 vertical and which does not obstruct
14 a drainage course, provided the area of the property does not exceed 5,000 sq. ft. and open
15 areas are properly stabilized and vegetated.
16
- 17 9. Field plowing and normal tilling operations, or clearing land or re-clearing for agricultural
18 purposes provided these activities or operations do not cause sediment and runoff water to
19 move beyond the edge of the farm boundaries and degrade the water quality of the receiving
20 water bodies, are performed in accordance with the guidelines and standards of Resource
21 Management Systems, approved by Guam's Soil Conservation District. Initial field plowing
22 or clearing land for agricultural purposes must be performed in accordance with the
23 implementation of a conservation management system that meets minimum standards
24 contained in the U.S. Field Office Technical Guides and approved by either the appropriate
25 Soil and Water Conservation District created by 5 GCA Chapter 63, in accordance with an
26 approved USDA Soil Conservation Service "Conservation Plan" or the Director of the Guam
27 Department of Agriculture.
28
29

1 10. Clearing and grubbing of land for the purpose of making topographic surveys, and hand
2 clearing of trails for survey lines and for access for soil exploration equipment.

3
4 E. Certain Rules of Word Usage

5 1. Words used in the present tense include the future tense, and the singular includes the plural
6 unless the context clearly indicates the contrary.

7
8 2. The term "shall" is always mandatory and not discretionary; and the word "may" is
9 permissive.

10
11 3. A word or term not interpreted or defined by this article shall be used with a meaning of
12 common or standard utilization.

13
14 **Section 10102. Definitions.**

15
16 A. Meanings of words and terms. The following words and terms, when used in these
17 regulations, shall have the following meanings, unless the context clearly indicates otherwise:

18
19 1. Accelerated erosion: The removal of the surface of the land through the combined action
20 of man's activities and natural processes at a rate greater than would occur because of the
21 natural process alone.

22
23 2. **Administrator:** The Administrator of the Guam Environmental Protection Agency or his
24 authorized representative.

25
26 3. **Agency:** The Guam Environmental Protection Agency (GEPA).

27
28 4. **Board:** Board of Directors, Guam Environmental Protection Agency.

- 1 5. Building pad: The compacted land area on which a structure is to be built.
2
- 3 6. Building permit: The official document issued by the Building Official, Government of
4 Guam, authorizing specific construction activities.
5
- 6 7. Channel: ~~shall mean~~ A natural stream that conveys water; a ditch excavated for the flow
7 of water.
8
- 9 8. Check dam: ~~shall mean~~ A structure used to reduce or prevent excessive erosion by
10 reduction of velocities in water courses.
11
- 12 9. Chutes/flumes: ~~shall mean~~ Channels of concrete or comparable material that are used to
13 conduct storm runoff down slopes where concentrated runoff would cause slope erosion.
14
- 15 10. Clearing and grading permit: An official document issued by the Building Official,
16 Department of Public Works, Government of Guam, authorizing specified earth-moving
17 operations. Such a permit requires the approval of the Director of Land Management and the
18 Administrator of the Guam Environmental Protection Agency, unless otherwise exempted by
19 the prevailing regulations, before the ~~its~~ issuance by the Building Official.
20
- 21 11. Clearing and grubbing: The removal of vegetation, including trees, timber, shrubbery,
22 and plants, when said vegetation is dislodged or uprooted from the surface of the ground, or
23 when removal of structures or other objects are removed from the ground in the course or
24 progress of construction or agricultural use.
25
- 26 12. Compaction: The densification of a fill by mechanical means.
27
- 28 13. Crimping: A method used to secure fiber mulches. The operation is performed by a
29 crimping machine which partially punches the mulch into the soil.

- 1 14. Deflection Structures: Stones ~~A stone~~, or concrete or wooden groins placed constructed
2 in a river or stream at an angle outward from the shore in a downstream direction to deflect
3 the current away from a critical area of the bank.
4
- 5 15. Denuded: Bare; naked; stripped.
6
- 7 16. Developer: Any person who is engaged in land development. ~~A person or corporate~~
8 ~~entity who controls a land parcel from its acquired state through the process of urbanization.~~
9 ~~The acquired state may be wild or farm which is changed to a shopping center, housing unit,~~
10 ~~commercial unit or amenities, golf courses, etc.~~
11
- 12 17. Dissipate: To scatter; disperse; cause to vanish.
13
- 14 18. Diversion: To change the accustomed course of all or part of a stream or of sheet runoff.
15
- 16 19. Diversion dike: A temporary ridge of soil constructed at the top of a cut or fill slope to
17 divert overland flow from small area away from unstabilized slopes.
18
- 19 20. Diversion ditch: A ditch constructed to channel stream or sheet runoff into desired
20 directions, and may also be referred to as Interceptor Channel.
21
- 22 21. Diversion terrace: A channel or dike constructed up slope of an area for the purpose of
23 diverting storm water runoff.
24
- 25 22. Earth material: Any rock, coral, sand, gravel, natural soil or fill /or any combination
26 thereof.
27
28
29

1 23. Earth-moving operations/activities: Human caused alterations to the existing topography.
2 Also see clearing, grading, filling and excavation. Any construction or other activity which
3 disturbs the surface of the land including, but not limited to, clearing, grading, grubbing,
4 excavation, embankment, construction, and development, subdivision, development, mineral
5 extraction, sand mining, and the moving, depositing or storing of earth material.

6
7 24. Embankment or fill: An act by which soil, rock, or other materials are placed or deposited
8 by man or by artificial means, and the resulting placements or deposit. A placement of soil,
9 rock, or other material by man.

10
11 25. Engineer: A person duly registered as a professional civil and/or structural engineer on
12 Guam.

13
14 26. Engineer's Soils Report: A report on soils conditions prepared by an a professional
15 engineer qualified in the practice of civil and/or structural engineering.

16
17 27. Environmental Impact Statement: A comprehensive and systematic assessment of
18 environmental impacts which would likely result from a human activity or action. Its purpose
19 is to provide, in part, a basis for making decisions which will affect the human condition as
20 well as the purely biological or natural conditions of our environment. It should provide a
21 reasonable set of alternatives and a preferred option which appropriately balances various
22 environmental concerns, including financial, social or cultural concerns. The assessment
23 should rely on proven assessment methods both scientific and political.

24
25 28. Environmental Protection Plan: A document describing, for a proposed development, the
26 methods/equipment selected for use, expected environmental problems during and after
27 construction, and methods and equipment chosen to avoid, mitigate or control potential
28 adverse effects on the environment.

- 1 29. Erosion: (1) The wearing away of the land surface by ~~running~~ water, wind, or other
2 geological agents. (2) Detachment and movement of soil or rock fragments by water, wind or
3 gravity.
4
- 5 30. Erosion check: ~~A technique whereby porous material like is installed in a slit trench~~ A
6 slit trench filled with porous matter that is oriented perpendicular to the direction of flow in
7 a ditch or swale to prevent the formation of rills and gullies, ~~gullied by permitting subsurface~~
8 ~~water migration without the removal of soil particles.~~
9
- 10 31. Erosion and sediment control: The control of earth material, both mineral and organic,
11 during an earth-moving operation, intended to prevent its transport out of the operation area
12 by means of air, water, or gravity.
13
- 14 32. Excavating: Lowering the existing ground elevation by earth-moving operations.
15
- 16 33. ~~Excavation or cut: An act by which earth material is cut into, dug, or moved and shall~~
17 ~~include the conditions resulting therefrom.~~ A cavity formed by digging, cutting, quarrying,
18 uncovering, displacing or relocating soil or rock.
19
- 20 34. Existing grade: The grade prior to grading.
21
- 22 35. ~~Fill or filling: Raising the existing ground elevation by earth-moving operations:~~ A
23 placement of soil, rock, or other material by man to raise the existing ground elevation.
24
- 25 36. Finish grade: The final grade of the site which conforms to the approved plan.
26
- 27 37. Grading: Establishing a topographical profile by earth-moving operations involving cuts
28 and fills or excavation or other earth work activities.
29

- 1 38. House pad: The compacted land area on which a dwelling structure is to be built.
2
- 3 39. Interceptor channel: A channel or dike constructed across a slope for the purpose of
4 intercepting storm water, reducing the velocity of flow, and diverting it to outlets where it can
5 be disposed.
6
- 7 40. Interceptor dike: A temporary ridge of compacted soil across a graded right-of-way that
8 ~~are is~~ not subject to vehicular traffic, designed to intercept and divert storm runoff ~~and divert~~
9 ~~it~~ to temporary outlets where it can be disposed of with minimal erosion.
10
- 11 41. Intermittent stream: A stream or portion of a stream that flows only in direct response to
12 precipitation and receives little or no water from springs ~~and no long-continued supply from~~
13 ~~or other sources.~~
14
- 15 42. Jute Netting: A heavy woven jute mesh laid directly over seedbeds to minimize soil
16 erosion in critical areas until vegetation can become firmly established. Due to its thick
17 fibrous composition, it also functions as a mulch to conserve soil moisture, insulate against
18 solar insulation, dissipate energy from falling raindrops and reduce erosion caused by overland
19 flow.
20
- 21 43. Key: A designed compacted fill placed in an earthen trench excavated beneath the toe
22 of a proposed fill slope.
23
- 24 44. Land developer: Any person who is engaged in land development.
25
- 26 45. Land development: The constructing, installing, placing, planting, or building of surface
27 structures, utility lines, shopping centers and malls, golf courses, apartment complexes,
28 schools, roads, highways, parking areas, or any other similar activity.
29

- 1 46. Level spreader: An outlet constructed at zero grade across a slope to collect concentrated
2 runoff and covert it into sheet flow with non-erosive velocities onto areas stabilized by
3 existing vegetation.
4
- 5 47. Mulch: A natural or artificial layer of plant residue (fiber mulches) other materials, such
6 as sand or paper, on the soil surface.
7
- 8 48. Mulch blanket : Blanket type materials used in the establishment of vegetation on swales,
9 ditches and steep slopes where fiber mulch products do not provide sufficient levels of
10 protection during germination and early growth.
11
- 12 49. Netting: A method of securing fiber mulches through the use of jute, plastic, paper or
13 fiberglass nets on steep exposed slopes where crimping is not possible and tacking will not
14 perform satisfactorily.
15
- 16 50. Outcrop: To come to, or be exposed on the surface.
17
- 18 51. Permeability: The property of a porous material which permits the passage or seepage of
19 fluids, such as water for example, or air through its interconnection voids.
20
- 21 52. Permeable: Having a texture through which water can move. ~~that permits water to move~~
22 ~~through.~~
23
- 24 53. Permit: An official document or certificate issued by the Building Official, Government
25 of Guam, authorizing the performance of a specified activity.
26
- 27 54. Permittee: The recipient of an approved permit issued by the Building Official,
28 Government of Guam.
29

1 55. Person: Any individual, partnership, firm, association, organization, municipality, public
2 or private corporation, other types of private legal entities and public entities including any
3 subdivision, agency or instrumentality of the government of Guam or the Federal Government,
4 trust, estate or any other legal entity.

5

6 56. pH: A numerical measure of the acidity or hydrogen ion activity of a soil. (The neutral
7 point is pH = 7.0. All pH values below 7.0 are acid and all above 7.0 are alkaline).

8

9 57. Right-of-way: Right of passage over another person's land; a route that is lawful to use;
10 a strip of land acquired for transport or utility construction.

11

12 58. Riprap: Broken rock, cobbles or boulders placed on earth surfaces such as the face of a
13 dam or the bank of a stream, for protection against the action of water or waves; also applied
14 to brush or pole mattresses, or brush and stone, or other similar materials used for soil erosion
15 control.

16

17 59. Rough grade: The stage at which the grade approximately conforms to the approved plan.

18

19 60. Runoff: Water from rain or irrigation that flows over the ground ~~surface~~ to surface,
20 marine or ground waters. It can collect pollutants from air or land and carry them to the
21 receiving waters. Also, that part of the precipitation which runs off the surface of a drainage
22 area and reaches a stream, body of water, drain or sewer.

23

24 61. Sandbag sediment barrier: ~~shall mean~~ Temporary barriers or diversions that are
25 constructed of sandbags.

26

27 62. Sectional down drain: A prefabricated sectional conduit of half-round, bituminized fiber
28 pipe or other material used to conduct storm runoff from one elevation to another without
29 erosion of slope.

- 1 63. Sedimentation: The depositing of sediments.
2
- 3 64. Sediment retention basin: A temporary dam or basin, or a combination of both, that will
4 trap and store sediment produced on exposed areas and delivered to the structure by storm
5 runoff.
6
- 7 65. Sediments: Mineral or organic solid materials that settle to the bottom of water, are being
8 ~~transported or have been moved from their site of origin by wind or water, and have come to~~
9 ~~rest on the earth's surface, either above or below sea level.~~
- 10
- 11 66. Site: The spacial location, under the same ownership, of an actual or planned structure
12 or structures, or earth-moving activity.
13
- 14 67. Slope: An inclined ground surface, the inclination of which is expressed as a ratio of
15 horizontal distance to vertical distance.
16
- 17 68. Soil: ~~(1) The unconsolidated mineral and organic material found on the earth's upper~~
18 ~~layer, that may be dug or plowed and in which plants can grow, on the immediate surface of~~
19 ~~the earth that serves as a natural medium of the growth of land plants. (2) The unconsolidated~~
20 ~~mineral matter on the surface of the earth that has been subjected to and influenced by genetic~~
21 ~~and environmental factors of parent material, climate (including moisture and temperature~~
22 ~~effects), macro and micro organisms, and topography, all acting over a period of time and~~
23 ~~producing a product soil that differs from the material from which it is derived in many~~
24 ~~physical, chemical, biological, and morphological properties and characteristics.~~
- 25
- 26 69. Soil engineering: The application of the principles of soil mechanics in the investigation,
27 evaluation and design of civil works involving the use of earth materials, and the inspection
28 and/or testing of the construction thereof.
29

- 1 70. Soil erodibility factor (k): A measure of the susceptibility of soil particles to detachment
2 and transport by rainfall and runoff.
3
- 4 71. Soil slopes: All denuded cut, fill or natural soil constituted slopes.
5
- 6 72. Stabilization: The proper placing, grading and/or covering of soil, rock or earth to insure
7 its resistance to erosion, sliding, or other movements.
8
- 9 73. Stockpiling: Temporary open storage of earth materials upon any premises where a
10 grading permit has been issued for the purpose of using the materials at some other premises
11 at a future time.
12
- 13 74. Storm water management: The practice of using detention measure to reduce the impact
14 of minor storms which cause accelerated erosion of stream channels and drainage ways (not
15 to be confused with control of flood flows).
16
- 17 75. Storm water runoff: Rain that is not absorbed when it comes in contact with the soil and
18 thus runs down hill into waters of Guam. This runoff may carry soil with it.
19
- 20 76. Strip planting: The planting of strips of wet soil tolerant, high erosion resistant vegetation
21 in the critical area near the waterline of a major waterway, and the planting of conventional
22 robust rooted grasses and legumes above the critical zone.
23
- 24 77. Subdivision: The division, re-division or change of lot lines of a lot, tract, or parcel of
25 land for the purpose of leasing, transferring ownership, or development, either immediately
26 or in the future.
27
- 28 78. Tacking: A method of securing mulches by the application of an asphalt or chemical
29 binder which binds the individual fibers together to form a resistant blanket.

- 1 79. Temporary stabilization: Protecting soil from excessive erosion for a short period of
2 time. Usually, temporary stabilization is designed to last for less than one year.
3
- 4 80. Terrace: A relatively level step constructed in the face of a grade slope surface for
5 drainage and maintenance purposes.
6
- 7 81. Territory: The ~~Territory of~~ Island of Guam, United States of America.
8
- 9 82. Tetrahedron: Solid figure with four (4) triangular surfaces.
10
- 11 83. Uniform Building Code (UBC): The most recent edition of minimum standards to
12 safeguard life or limb, health, property and public welfare by regulating and controlling the
13 design, construction, quality of materials, use and occupancy, location, and maintenance of all
14 buildings and structures within Guam, as published by the International Conference of
15 Building Officials.
16
- 17 84. Waters of the ~~Territory~~ Guam: All shore waters ~~surrounding Guam~~, streams, lakes, wells,
18 springs, irrigation systems, wetlands, sinkholes, marshes, swamps, watercourses, waterways,
19 drainage systems and other bodies of water, surface and underground, natural or artificial,
20 publicly or privately owned, on or surrounding Guam.
21
- 22 85. Watershed: ~~The area contained within a divide above a specified point on a stream. For~~
23 any river, stream or other water body, the drainage area that contributes water to that water
24 body.
25
- 26 86. Watershed divide: The line that follows the ridges or summits forming the exterior
27 boundary of a drainage basin and separates one drainage basin from another.
28
- 29 87. Waterway: A natural course or constructed channel for the flow of water.

1 **Section 10103. Permit Issuance and Denials.**

2
3 **A. Permits Required.**

4
5 1. Unless exempted, no person shall commence or perform any grading, clearing, grubbing,
6 embankment, filling, excavation or other earth-moving activity without a grading permit.

7
8 2. Unless exempted, no person shall commence or perform any stockpiling without a
9 stockpiling permit.

10
11 **B. Permit Application Process.**

12 An applicant shall obtain the required application from the Building Permit Section,
13 Department of Public Works located at the One-Stop Permit Center or other approved
14 location, and shall complete and submit the application to the One-Stop Permit Center or other
15 GEPA approved location for review and approval of all concerned agencies, including the
16 Guam Environmental Protection Agency.

17
18 **C. Permit Application Contents**

19 1. A description of the proposed activity, including its purpose, proof of land ownership (title,
20 deed or authorized letter) and other pertinent information as may be required by the
21 Administrator.

22
23 2. A vicinity map or plan of the site indicating:

24
25 a. Site information. The location, including names and locations of streets, roadways,
26 and right-of-ways; property line locations, dimensions and azimuths, easements and
27 setbacks of property; the location of any utility and utility lines, buildings, structures and
28 improvements on or within 100 feet of the site; prominent visible rock out-cropping;
29 elevations, dimensions, location, extent and slopes of all proposed earth moving

1 activities shown by contours and/or other means; the area in square feet of the land to
2 be affected; and the quantities of excavation and fill involved.

3
4 b. Water course information. Locations, dimensions and flow of springs, rivers,
5 wetlands, wells and streams; natural drainage depressions, basins and sinks; flood plains
6 on the project site and downstream locations which will undergo changes due to the
7 proposed earth-moving operations; and existing and proposed water quality monitoring
8 stations located on or nearby the project site.

9
10 c. Vegetation information. Location and type of existing trees with a diameter of 12
11 inches and greater.

12
13 3. Required maps will be prepared and signed by a licensed land surveyor. Grading plans and
14 specifications will be prepared and signed by an engineer. Required maps should conform to
15 the latest Zoning Code of Guam's Land Use Plan and subdivision law. The scale shall be no
16 smaller than 1 inch = 50 feet or 1 inch = 5 meters.

17
18 4. An application for a stockpiling permit shall include: a plot plan showing the property
19 boundaries; easements, setbacks, and location of the proposed stockpiles; quantities; height
20 of stockpile; the kind/source of the material to be stockpiled; expected life of the stockpile, and
21 any other information required by the Administrator to control dust, drainage or sedimentation
22 problems. Where stockpiling is for the purpose of surcharging to stabilize or consolidate an
23 area, the permittee shall submit an engineer's soil report which shall include data on the effect
24 such surcharging will have on adjacent buildings or structures.

25
26 5. Required Plans

27
28 a. Erosion and Sediment Control Plan. ~~as a prerequisite of all permits issued by the~~
29 ~~Building officials, Department of Public Works;~~ This plan is required for clearing,

1 grading, grubbing, embankment or filling, excavation or other earth-moving operations
2 not otherwise exempted by these regulations.

3
4 b. Storm water Runoff Drainage System Plan. This plan, in addition to the Erosion
5 and Sediment Control Plan, is required when the area to be graded is more than 5,000
6 square feet or a proposed cut or fill is greater than five feet in height.

7
8 c. Both the Erosion and Sediment Control and Storm water Runoff Drainage Systems
9 Plans shall:

10
11 i. be prepared and signed by an engineer in accordance with these regulations,
12 and the best management practices (BMP) guidance manual or other
13 application of BMPs; and.

14
15 ii. show the method to be used for controlling erosion and disposal of storm
16 water runoff prior to and post construction, including drainage devices such as
17 terraces, berms, ditches culverts, subsurface drains, sedimentation basins, and
18 the estimated runoff quantities of the areas served by each drain and drainage
19 structure.

20
21 d. Environmental Protection Plan will be required depending on the intensity and
22 scope of the project. This plan will describe the methods and equipment to be
23 used on site; expected or anticipated environmental problems during and after
24 construction; and the methods and equipment that may be used to avoid,
25 mitigate or control potential adverse effects on the environment.

26
27 6. When a proposed cut or fill is greater than five (5) feet or the proposed grading is on land
28 with slopes exceeding 5 percent, or when any fill is to be placed in a gully, or when the fill
29 material will be a highly plastic clay, the applicant shall submit to the Administrator, for the

1 Agency's evaluation and review, an engineer's soils report signed by an engineer and
2 approved by the owner. The soils report shall include data regarding the nature of the
3 distribution and engineering characteristics of existing soils, and the subsurface conditions at
4 the site. It shall recommend the limits for the proposed grading, the fill material to be used,
5 the geotechnical calculations for the cut or fill area, and the manner of placing, including the
6 heights and slopes of cut and fill sections.

7
8 7. When an activity or project is located within an environmentally sensitive area (e.g.: areas
9 that affect seashore, rivers and streams, wetlands, critical habitats, and aquifers), an
10 Environmental Impact Assessment (EIA) must be submitted, unless the Administrator
11 determines in writing that the activity is exempted from EIA requirements.

12
13 8. If wetlands exist on the property to be cleared and grubbed, graded or used for stockpiling
14 of earth materials, the (wetlands) must be identified with both field markings and by mapping
15 on the site and/or grading plan(s). Wetlands cannot be cleared, grubbed, graded or otherwise
16 be used as a stockpiling site without first obtaining both a valid Guam Wetland Development
17 Permit and a U.S. Army Corps of Engineers Section 404 fill or discharge permit.

18
19 9. The Administrator may require that wetlands, on the property to be cleared, grubbed or used
20 for stockpiling of earth materials, be officially delineated, in whole or in part, when conditions
21 such as slope, soil stability, proximity of work or other performance related conditions warrant
22 an official delineation. Individuals required to delineate wetlands in accordance with this
23 provision shall apply the mapping requirements of the Guam Environmental Protection
24 Agency Wetlands Mapping Policy, revised November 9, 1995.

25
26 10. Other permits, plans or approvals associated with and issued for the proposed project shall
27 be submitted with the permit application. Activities described in the permit application shall
28 be consistent with these permits, plans or approvals. Such documents include, but are not
29 limited to:

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a. Any required conditional use, seashore clearance, wetland, Section 401 WOC, Section 404 permits (CWA), and planned development approvals, height variances, plan review use approvals, or re-zoning under the Guam Zoning Regulations;

b. Sub-division approvals, when an application includes the grading of a development that is to be subdivided, pursuant to the Guam Subdivision Rules and Regulations;

c. Conditional use approvals from Guam Land Use Commission, when the area to be graded or excavated will be used as quarry, and extracted materials used to fill a different area or sold as a fill material by the owner.

D. Permit Conditions

1. ~~Additionally,~~ No permit for earth-moving operations will be issued that will cause erosion and sediment loads or cause pollution to the waters of ~~the Territory~~ Guam, as defined by the latest Guam Water Pollution Control Act and the ~~current~~ Water Quality Standards, unless an Environmental Protection Plan and an Erosion and Sediment Control Plan ~~has~~ been approved by the Agency.

2. The Administrator may attach such conditions as may be reasonably necessary to ensure that any grading work is for a use or structure permitted in accordance with zoning requirements, and to prevent creation of a nuisance or hazard to public or private property, health or welfare. Such conditions may include but are not limited to:

a. improvements of any existing grading to bring it up to the standards of these regulations;

b. requirements for fencing of excavation or fill to minimize hazards;

1 c. requirements for retaining walls or other earth retention structures to prevent loss
2 of support to, erosion of, and interference with natural drainage patterns on adjacent
3 properties;

4
5 d. requirements involving clean-up of an area; and

6
7 e. limitations on the months, days and hours of permitted work.

8
9 3. The issuance of a grading permit shall constitute an authorization to do only that work
10 which is described in the permit and in the plans and specifications approved by the
11 Administrator.

12
13 4. Permits issued under these regulations shall not relieve the permittee of the responsibility
14 for securing permits or approvals for work to be done which is regulated by any federal laws
15 or other laws of Guam, or by department, or division of the governing agencies of the
16 Government of Guam.

17
18 5. Permits issued under these regulations shall be consistent with other permits, plans or
19 approvals associated with the proposed project.

20
21 6. Where any operations are delayed for any reason, a revised work schedule shall be
22 submitted to the Administrator which describes any required modifications to the temporary
23 storm water drainage system and to the Erosion and Sediment Control Plan, and other
24 information the Administrator may require.

25
26 7. A copy of the permit, plans and specifications for grading, clearing & grubbing, or
27 stockpiling shall be maintained at the job-site during the progress of the work.

1 E. Permit Denials.

2 The Administrator shall deny a clearing and grubbing, grading or stockpiling permit if there
3 is reasonable cause for concern that the work as proposed by the applicant may present a risk
4 or endangerment to public health or the environment. Factors to be considered in determining
5 probability of dangerous conditions include, but are not limited to:

6

7 1. possible saturation of ground by rain;

8

9 2. dangerous geological conditions or flood hazards;

10

11 3. undesirable surface water runoff, and

12

13 4. subsurface conditions such as the stratification and faulting of rock, nature and type of soil
14 or rock.

15

16 **Section 10104. Erosion and Sediment Control Plans**

17

18 **A. General Requirements**

19 1. All earth-moving activities on Guam shall be conducted in such a way as to prevent
20 accelerated erosion and the resulting sedimentation. To accomplish this all persons engaged
21 in earth-moving activities shall design, implement, and maintain erosion and sediment control
22 measures which effectively prevent accelerated erosion and sedimentation. These erosion and
23 sediment measures must be as set forth in Erosion and Sediment Control Plans submitted,
24 reviewed and approved by GEPA.

25

26 2. All clearing, grading, embankment or filling, excavating and other earth-moving operations
27 shall proceed only in accordance with an Erosion and Sediment Control Plan, prepared in
28 accordance with the requirements set forth in these regulations, and which is duly approved
29 by the Agency.

1 ~~3. Such Erosion and Sediment Control Plans shall be prepared in accordance with the~~
2 ~~requirements set forth in these regulations.~~

3

4 3. An approved Erosion and Sediment Control Plan does not abrogate a permittee's
5 responsibility to comply with all other applicable ~~Territorial~~ local and federal laws and
6 regulations.

7

8 ~~(3) An Erosion Control Plan shall be a prerequisite of all permits issued by the Building~~
9 ~~officials, Department of Public Works, for clearing, grading, filling, excavating or other~~
10 ~~earth-moving operations not otherwise exempted by these regulations. Additionally, no~~
11 ~~permit shall be issued if earth-moving operations will cause erosion and sediment loads~~
12 ~~or cause pollution to the waters of the Territory, as define by the Guam Water Pollution~~
13 ~~Act and the Water Quality Standards, unless and Environmental Protection Plan has been~~
14 ~~approved by the Agency.~~

15

16 B. Agency approval of Erosion and Sediment Control Plans

17 1. ~~Two~~ Four copies of a proposed Erosion and Sediment Control Plan shall be submitted to
18 the Agency with ~~Such Plan copies shall accompany~~ the permit application for earth-moving
19 operations.

20

21 2. The Agency shall have ~~ten~~ thirty (30) working days to approve or disapprove of such plan.

22

23 C. Compliance

24

25 1. All clearing, grading, embankment or filling, excavating and other earth-moving
26 operations, ~~except as provided under Section II-10109 (3)(b) below, or as~~ those otherwise
27 exempted from these regulations by the Administrator, must proceed in accordance with a duly
28 approved Erosion and Sediment Control Plan.

29

1 2. Earth-moving operations in progress, other than quarrying, shall comply with these
2 regulations within ~~7-15~~ calendar days of the effective date of these regulations. Quarrying
3 operations shall comply with these regulations within 30 calendar days of the effective date
4 of these regulations.

5

6 **Section 10105. Erosion and Sediment Control Plans and Measures.**

7

8 **A. General policies for Erosion and Sediment Control**

9 **(a) ~~Planning policies for control of Erosion and Sediment Control Plan~~**

10 1. All earth-moving operations ~~in the Territory on Guam~~ shall be conducted in a manner that
11 prevents accelerated land erosion, transportation of sediment to and along highways, or
12 siltation ~~or of~~ rivers, estuaries and marine waters. ~~In conjunction with the project construction~~
13 ~~schedule, the Plan shall indicate the construction sequence of erosion and sedimentation~~
14 ~~control measures.~~

15

16 2. The area affected by earth-moving operations shall be kept to a minimum by either
17 selective clearing, increment phases of development or other effective means. The Erosion
18 and Sediment Control Plan must contain measures that ensure that each phase of any proposed
19 large development affects less than 20 acres.

20

21 3. All earth-moving operations shall be scheduled during periods of expected low rainfall.

22

23 4. Any earth moving operations authorized under these regulations shall be performed so as
24 not to violate applicable provisions of the latest Guam Water Quality Standards.

25

26 5. No person shall perform any earth moving operation so as to cause falling rocks, soil or
27 debris in any form to fall, slide or flow onto adjoining properties or waters of Guam.

28

29 6. All work areas shall be maintained so as to minimize dust which may cause a nuisance or

1 hazard to others, and in conformance with the Guam Air Pollution Control Standards and
2 regulations.

3
4 7. Where construction equipment will make frequent crossings of a natural drainage course,
5 plans shall provide for temporary culverts or bridge structures to be installed. The required
6 clearances from concerned agencies shall be obtained before any construction of temporary
7 crossing access begins.

8
9 8. The erosion and sedimentation control measures set forth in this section are required, unless
10 the Erosion and Sediment Control Plan shows that the alteration of these measures and
11 facilities or inclusion of other measures and facilities will better prevent accelerated erosion
12 and sedimentation.

13
14 B. Required contents of Erosion and Sediment Control Plans

15 1. Description of the Project.

16 The plan shall include a brief detailed narrative description, with photographs and construction
17 drawings, of the proposed project. ~~Sketches, photographs and construction drawings may be~~
18 ~~used to supplement this description.~~

19
20 2. Project Site Plan.

21
22 a. The necessary information is that which is required in Section 10103.C. Permit
23 Application Contents. A project site plan shall include the data listing in this subsection
24 Plan sheet size shall not be smaller than 18 inches x 24 inches and not larger than 30
25 inches x 42 inches. Plan sheet sizes shall not vary .

26
27 ~~(a) Project site vicinity map and north arrow.~~

28
29 ~~(b) Existing land uses and structures.~~

1 (c) Existing vegetation,

2
3 ~~(d) Existing topography at contour intervals of not greater than ten feet~~

4
5 ~~(e) Grading plan at contour intervals of not greater than five feet which extend beyond~~
6 ~~the project site limits so as to adequately depict the off-site drainage pattern for purposes of~~
7 ~~assessing any erosion or its deposition onto other properties.~~

8
9 b. Soil description including: soil classification by USDA Natural Resources Soil
10 Conservation Service "Soil Taxonomy Classification System"; soil erodibility factor;
11 soil permeability and percolation rates; type and extent of out-croppings; depth of
12 soil; capability for establishing vegetation; and coefficient of runoff.

13
14 c. Evaluation of subsurface information. Subsurface investigations shall consist of
15 drilling, excavations, or observations of naturally exposed soil and bedrock exposures
16 at sufficient intervals and depths to indicate the type of material or condition to be
17 encountered at final grading. The person or firm making the investigation shall submit
18 a written report of their findings and recommendations. — as described in part (h) below
19 This information is required where the stability will be lessened by proposed grading
20 or filling, where any other weaknesses are found, or where any of the following
21 conditions are discovered or proposed:

22
23 i. At locations where a fill slope is to be placed above or a cut slope;

24
25 ii. At proposed cuts exceeding 15 feet in height unless in competent rock as
26 determined by an engineer.

27
28 iii. At locations of proposed fills exceeding 15 feet in height.
29

1 iv. Where sides of hill fills are to be placed on existing slopes steeper than 15
2 percent:

3
4 v. Wherever groundwater from either the grading project or adjoining
5 properties is likely to reduce stability:

6
7 vi. At zones of trapped water or high water table: or.

8
9 vii. Where the topography is indicative of landslides, as determined by an
10 engineer.

11
12 d. Site Assessment. ~~of the Site. The assessment of the site shall determine the need~~
13 ~~for an erosion and sediment control plan by considering~~ Consider the detrimental
14 effects of construction of the site as it pertains to: erosion and loss of sediments; slope
15 stability; water quality; plant communities; wildlife and aquatic life; and condition of
16 marine waters and reef flats which will receive storm water runoff, either directly or
17 indirectly, from the project site.

18
19 3. Grading Plan.

20 It is the purpose of this paragraph to ensure that minimum grading is performed and that
21 natural contours and topography will be retained wherever feasible.

22
23 a. Grading shall be designed and implemented so as to blend in with the surrounding
24 area.

25
26 b. All grading plans and specifications shall show, using contours, cross sections, spot
27 elevations or other means, the condition of the land before and after grading.

1 c. The grading plan shall provide information regarding the location and source of
2 imported fill material, and the location for disposal of excess excavation material.

3
4 d. Where a grading activity is to occur in increments or phases, the plan shall also
5 include the plan for future site development and the proposed grading of future
6 increments.

7
8 4. Construction Schedule.

9
10 a. Construction increments shall be described in detail and identified on the project
11 plan.

12
13 b. The schedule will indicate completion dates for each construction increment and
14 the construction sequence of erosion and sediment control measures. shall be
15 indicated. Each increment phase of work shall have an approved Environmental
16 Protection Plan and Soil Erosion and Sedimentation Control Plan from the Agency.

17
18 c. The Agency shall check the adequacy of the schedule with respect to short term and
19 long term erosion anticipated on the project site. The construction schedule shall be
20 checked to ensure prompt establishment of protective vegetation with full recognition
21 of climatic and other factors that influence its establishment.

22
23 4. Stormwater Drainage System and Control of Site Water Runoff.

24 a. The proposed temporary and permanent, natural and man-made, storm water
25 drainage systems shall be depicted in detail in the drawing plans, including, but not
26 limited to, dimensions, alignments and elevations of all structures as well as the
27 anticipated volume and velocity of the storm water. Design calculations for the
28 drainage systems and siltation basins, best management practices, and other pertinent
29 structures, shall be submitted. The following shall also be provided:

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i. The runoff to be expected during and after the proposed development:

ii. The size of drainage areas above cuts and slopes:

iii. Estimate soil loss volume:

iv. The methods for trapping sediments, reducing erosion of drainage ways, and for controlling the collection and discharge of stormwater during and after construction.

v. The method and schedule of construction of waterway crossings. Sediment control structures for natural waterways shall be scheduled for installation prior to any earth-moving operations.

b. Adequate provisions shall be made to prevent surface waters from damaging the cut face of an excavation or the sloped surfaces of a fill. Positive drainage shall be provided to prevent the accumulation or retention of surface water in pits, gullies, holes or similar depressions. All drainage facilities shall be designed to carry surface water runoff to a storm drain that will discharge to a catchment facility within the project site. The Administrator may require such drainage structures and pipes to be constructed or installed, which in his opinion, are necessary to prevent erosion damage and to adequately carry off surface waters. The flow of any existing and known natural underground drainage shall not be impeded or changed so as to cause damage to adjoining property.

~~c. Storm water runoff from areas disturbed by earth-moving operations shall be collected and diverted to facilities for removal of sediment prior to discharge to any surface or marine waters of the Territory.~~

1 c. During construction, all storm sewer inlets shall be protected with silt traps.

2
3 d. If a project to be developed is covered under the Federal Stormwater Regulations
4 (40 CFR Parts 122 & 123), a notice of intent to discharge stormwater to surface and
5 marine waters of Guam must be submitted to US Environmental Protection Agency
6 and a copy furnished GEPA. An NPDES permit which authorizes the discharge must
7 also be secured.

8
9 **(5) ~~Erosion and Sediment Control Measures.~~**

10 ~~(a) The erosion and sediment control plan shall specify the types, dimensions and~~
11 ~~locations of all temporary and permanent structures, measures (including vegetation), and~~
12 ~~equipment proposed for controlling erosion and sedimentation. Such Plan shall encompass~~
13 ~~the disposal of excavated materials and cleared vegetation.~~

14 ~~(b) In conjunction with the project construction schedule, the Plan shall indicate the~~
15 ~~construction sequence of erosion and sedimentation control measures:~~

16 ~~⊙ Stabilization of all affected streams, waterways and drainage ways;~~

17
18 e. Structural measures such as berms, dikes, traps, basins, shall be installed prior to
19 any other grading, clearing, or disturbance of the existing surface of the site..

20
21 f. Diversion Terraces

22 i. Diversion terraces shall be constructed up-grade of a project area to convey
23 runoff around the project area. For temporary diversions, the channel shall
24 have capacity to convey 1.6 cubic feet per second per acre of land tributary to
25 it. For permanent diversions, the channel shall have capacity to convey 2.75
26 cubic feet per second per acre of land tributary to it.

27
28 ii. Diversion terraces shall be grassed or lined with erosion resistant material
29 to prevent accelerated erosion within the channel.

1 iii. Outlet structures shall be designed to maintain a discharge velocity of less
2 than 2.0 feet per second and all areas affected by the construction activity shall
3 be stabilized before the outlet structures shall be used.

4
5 g. Interceptor Channels.

6 i. Interceptor channels may be used within the project area to reduce the
7 velocity of the flow and thus prevent accelerated erosion.

8
9 ii. Water collected by interceptor channels shall be conveyed to sedimentation
10 basins or to vegetated areas but not directly to streams.

11
12 iii. Outlets to vegetated areas shall be designed to maintain an outlet velocity
13 of less than 2.0 feet per second. Outlet structures shall be screened to lower the
14 amount of suspended solids in the discharge water.

15
16 h. Channels of Conveyance.

17 All channels used to convey water through a project area shall be designed to
18 have a velocity of less than 1.5 feet per second. Where this is not possible, the
19 channel shall be grassed or lined with erosion resistant material.

20
21 i. Sedimentation Basins.

22 i. The basin shall be cleaned when the storage capacity of the basin is reduced
23 to 5,000 cubic feet per acre of project area tributary to the basin.

24
25 ii. Water from a sedimentation basin shall not be discharged to a natural
26 waterway. Designs of sediment basins must provide for enough storage to give
27 time for runoff water to be leached into the ground.

28
29 iii. Outlets of sedimentation basins shall be screened and designed in a manner

1 which does not discourage regular maintenance.

2
3 iv. Sedimentation basins shall be structurally sound and properly secured
4 to protect them from unauthorized acts of third party activities.

5
6 5. Cut and fill measures

7 a. The conditions of the following subsections may be modified by the Administrator
8 based on a supportive engineer's soils report, and receipt of approvals from the owner
9 and concerned agencies:

10
11 i. Height. Where a cut or fill is greater than 15 feet in height, terraces, or
12 benches shall be constructed at vertical intervals of 15 feet except where only
13 one bench is required, the single bench shall be constructed at the midpoint.
14 The minimum width of such terraces or benches shall be at least 18 feet and
15 provided with drainage provisions to control erosion on the slope and face and
16 bench surface.

17
18 ii. Cut Slopes. Under the following conditions, no cut may be steeper in slope
19 than the ratio of its horizontal to its vertical distance as shown below:

20 (a) 2 horizontal to 1 vertical in unweathered rock or mudrock;

21
22 (b) 2 horizontal to 1 vertical in decomposed rock; or

23
24 (c) 2 horizontal to 1 vertical in soils of low plasticity for cuts of any
25 height in highly plastic soils. The engineer's soils report shall include
26 the recommended slope design, and design calculations necessary to
27 demonstrate slope stability.

1 iii. Fill slopes shall not be steeper than the ratio 3 horizontal to 1 vertical
2 except that fill using highly plastic clays shall have slopes specifically
3 recommended in the engineer's soils report signed by a professional civil
4 engineer, and approved by the owner. The engineer's soils report shall include
5 the recommended slope design, and design calculations necessary to
6 demonstrate slope stability.

7
8 b. Fill material shall be selected to meet the requirements and conditions of the
9 particular fill for which it is to be used. The fill material shall not contain vegetation
10 or organic matter. Where rocks, concrete, or similar materials of greater than 8 inches
11 in diameter are incorporated into the fill, they shall be placed in accordance with the
12 recommendation of the professional civil engineer.

13
14 c. Before placing fill or stockpiling, the natural ground surface shall be prepared by
15 removing the vegetation and, shall be notched by a series of benches and/or subsurface
16 drains installed.

17
18 d. No fill shall be placed over any waters of Guam (e.g.: spring, marsh, wetlands),
19 refuse dumps, or soft, soggy or springy foundations.

20
21 e. Fill materials shall be spread and compacted in a series of eight (8) inch to ten (10)
22 inch layers, unless otherwise recommended by the professional civil engineer. For
23 slopes, the fill shall be compacted to ninety five (95) percent maximum density as
24 determined by the most recent ASTM Soil Compaction Test D1557. The engineer's
25 soils report shall include the recommended slope design, and design calculations
26 necessary to demonstrate slope stability.

27
28 f. Distance from property line. The following requirements may be modified by the
29 Administrator when cuts or fills are supported by retaining walls or when the permittee

1 submits an engineer's soils report stating that the soil conditions will permit a lesser
2 horizontal distance without causing damage or danger to the adjoining property. The
3 engineer's soils report shall include the recommended slope design, and design
4 calculations necessary to demonstrate slope stability.

5
6 The horizontal distance from the top of a cut slope or the bottom of a fill
7 slope to the adjoining property line shall not be less than as follows:

<u>Heights of cut or fill</u>	<u>Distance from property line (in feet)</u>
<u>Zero feet to 4 feet</u>	<u>4</u>
<u>More than 4 feet to 10 feet</u>	<u>6</u>
<u>More than 10 feet to 15 feet</u>	<u>8</u>
<u>More than 15 feet</u>	<u>10</u>

14
15 **6. Maintenance Procedures.**

16 a. A maintenance program for the erosion and sedimentation control structures and
17 facilities shall be established. ~~Such~~ The program shall include ~~periodic~~, but not be
18 limited to, a schedule for inspecting the facilities and for removing and disposing
19 ~~inspection schedule of the facilities, schedule of removal and disposal of sediment~~
20 materials from the control structures, or project area, and specific assignment duties
21 of the designated maintenance personnel.

22
23 b. If the original owner has sold the property, the subsequent owner shall be
24 responsible for maintaining the permanent measures that have been installed on the
25 property.

26
27 **7. Disposal of Spoil Materials.**

28 The information concerning the disposal of spoil materials shall include the following: type
29 of spoil material; location of disposal area; method for processing and disposing of spoil

1 materials; procedures for preventing soil loss to adjacent watercourses; and, if intending to
2 burn spoil materials, burning procedures for combustible spoil material. Burning requires a
3 permit from the Guam Fire Department;

4
5 8. Stockpiles.

6 The following information shall be provided: source of stockpile material; location, slope, and
7 height of stockpile; duration that the material is to be stockpiled; provisions to prevent
8 erosion and sediment loss from rain and wind action; plan for removing stockpiles at project
9 completion.

10
11 9. Stabilization of Affected Areas

12 a. Stabilization of slopes, channels, ditches, berms, diversions, silt dams, or any
13 disturbed areas shall begin as soon as possible and no later than 30 calendar days after
14 the final grade or final earth-moving activities has been completed.

15
16 b. Electric power, and telephone trenches are to be stabilized as soon as possible and
17 no later than 30 days after backfill.

18
19 c. Stabilization of stream banks shall be scheduled during periods of expected low
20 rainfall.

21
22 b. Temporary stabilization measures shall be defined for implementation in the
23 event that delays occur during earth-moving operations and until such time that
24 permanent stabilization measures are in place.

25
26 d. Where it is not possible to permanently stabilize a disturbed area immediately after
27 the final earth-moving has been completed or where the activity ceases for more than
28 30 calendar days, interim or temporary stabilization measures shall promptly be
29 implemented and enforced.

1 e. Any disturbed area not paved, sodded or built shall be seeded and mulched with
2 vegetative cover appropriate to the soil type, as recommended by an engineer, or the
3 condition of the area based on soil test analysis done by a laboratory. This condition
4 does not prohibit the use of matting, gabion, armor coating on erodible surfaces or
5 other type of vegetative cover that will minimize erosion.

6
7 ~~g. All facilities which are authorized by an Erosion and Sediment Control Plan and~~
8 ~~which are necessary to protect areas from erosion during the stabilization period shall~~
9 ~~be properly maintained until such stabilization is complete.~~

10
11 f. All structural sediment control measures are to remain in place until permission for
12 their removal has been obtained from the Agency.

13
14 ~~4. No graded area shall remain in an unstabilized condition for longer than or longer~~
15 ~~than authorized by its approved Erosion Control Plan.~~

16
17 ~~5. In the event that earth-moving operations are discontinued or delayed, graded~~
18 ~~areas shall receive interim, or temporary cover~~

19
20 ~~6. All areas disturbed by earth-moving operations, including slopes, channels, ditches,~~
21 ~~banks, must be stabilized as soon as possible after the final grade has been established~~

22
23 10. Protection and Removal of Native Vegetation. ✕

24 a. In order to protect native vegetation from construction impacts, the following
25 information shall be provided: location and description of native vegetation whose root
26 zone will be affected by compaction, fills, trenches, and changes in the groundwater
27 table; measures which will prevent conditions damaging to vegetation; and criteria
28 used to determine removal;

29

1 b. Whenever feasible, natural vegetation should be retained. If their removal is
2 necessitated, they shall not be stored or deposited along banks of streams, rivers or
3 natural water courses, after being uprooted, or displaced from the ground by
4 excavation, clearing or grubbing. Removed vegetation shall be disposed of at a
5 disposal site approved by the Administrator, and removed from the site within a
6 reasonable time, not to exceed one (1) month from date of removal.

7
8 11. Establishment of Vegetation

9 a. Where the establishment of vegetation is required on slopes of cut and fill, graded
10 areas, and watercourses, etc., the following information shall be provided:

11
12 i. Location and areas to be vegetated:

13
14 ii. An indication of whether vegetation is to be temporary or permanent:

15
16 iii. Type and quantity of seeds or plants:

17
18 iv. Ground conditions, including: soil surface condition, pH, permeability, size
19 distribution, slope angle, slope length, and aspect, nutrients:

20
21 v. Type and quantity of mulch:

22
23 vi. Type and quantity of fertilizer:

24
25 vii. Method and schedule of seeding, mulching, planting, and fertilizing:

26
27 viii. Irrigation schedule.

1 b. The plan shall provide for the revisiting of the location every three (3) months to
2 verify that vegetation has been successfully established. If not successful the site must
3 be revegetated until the area ~~returns to its pre-existing condition substantially.~~ is
4 successfully revegetated.

5
6 12. Certification. The Plan shall be stamped and signed by a professional civil and/or
7 structural ~~environmental~~ engineer ~~holding current Guam registration in the Territory~~
8 currently registered on Guam.

9
10 Section 10106. Special Requirements.

11 A. Protection of adjoining properties.

12 Any person performing or causing to be performed any excavation or fill shall, at his own
13 expense, provide the necessary means to prevent the movement of earth to the adjoining
14 properties, and to maintain the existing natural grade of adjoining properties.

15
16 B. Protection of public utilities.

17 Any person performing or causing to be performed any excavation or fill shall be responsible
18 for the maintenance or restoration of street pavements, sidewalks and curbs, and improvements
19 of public utilities which may be affected. Such maintenance shall be in accordance with the
20 requirements of the Department of Public Works, Government of Guam agencies and affected
21 public utilities. At cuts fronting any street, a suitable and adequate barrier shall be installed
22 to provide protection to the public.

23
24 C. Removal of silt or other debris.

25 Any person depositing or causing to be deposited, any silt or debris in ditches, water courses,
26 drainage facilities, and public roadways, shall remove such silt or other debris. In case such
27 person shall fail, neglect or refuse to comply with the provisions of this section within 48
28 hours after written notice served upon him, either by mail or by personal service, the
29 Administrator may proceed to remove the silt and other debris or to take any other action he

1 deems appropriate. The costs incurred for any action taken by the Administrator shall be
2 payable by such person.

3
4 D. Safety precautions.

5 At any stage of the grading, grubbing, or stockpiling, if the Administrator finds that further
6 work as authorized by an existing permit is likely to create soil erosion problems or to
7 endanger life, limb or property, he may require safety precautions. These precautions may
8 include but are not limited to: flattening exposed slopes; constructing additional silting or
9 sediment basins, providing drainage facilities or benches; removing rocks, boulders, debris and
10 other dangerous objects which, if dislodged, are likely to cause injury or damage; or
11 constructing fences or other suitable protective barriers.

12
13 E. Creation of individual building sites.

14 Hillside lots shall be graded in such a manner that any parcels which may be created, including
15 all separate building sites which may be contained within said parcels, can be satisfactorily
16 graded and developed as individual building sites.

17
18 **Section 10107 Project Completion ~~III. Minimum Conditions of an Erosion and Sediment~~**
19 **Control Plan**

20 **A. Products to be submitted.**

21 **1. As-built / graded plan, prepared by an engineer or land surveyor, upon completion of an**
22 **earth-moving operation covering an area of greater than one (1) acre;**

23
24 **2. Soils report, when earth moving operations involve cuts or fills for which an engineer's**
25 **soils report is required. The report shall contain:**

26
27 **a. A description of materials used in the fill and its moisture content at the time of**
28 **compaction;**

29 **b. The procedures used in depositing and compacting the fill;**

1 3. A description of the preparation of the original ground surface before making the fill, but
2 not limited to benching and subsurface drainage:

3
4 4. A plan or tabulation showing the general location and elevation of compaction tests
5 made in the fill together with a tabulation of relative compaction densities obtained at each
6 location, the location of sub-drains, and other pertinent features of the fill necessary for its
7 stability; and

8
9 5. Certification that the work was done in conformity with these regulations, the approved
10 plans and specifications, and the engineer's soils report.

11
12 B. Final inspection and approval.

13 The permittee or his agent shall notify the Administrator or his representative when the earth-
14 moving operation is ready for final inspection. Final approval shall not be given until all
15 approved work has been completed. Final approval shall be dependent on installation of all
16 drainage structures and their protective devices, establishment of a healthy vegetation growth
17 in conformance with the approved plans and specifications, and submittal of any required
18 reports.

19
20 (a) Planning policies for control of Erosion and Sediment Control Plan:

21
22 ~~1. All earth-moving operations in the Territory on Guam shall be conducted in a~~
23 ~~manner that prevents accelerated land erosion, transportation of sediment to and along~~
24 ~~highways, siltation or rivers, estuaries and marine waters.~~

25
26 ~~2. The area affected by earth-moving operations shall be kept to a minimum by either~~
27 ~~selective clearing, increment phases of development or other effective means.~~

28
29 ~~3. All earth-moving operations shall be scheduled during periods of expected low~~

1 rainfall.

2
3 ~~4. No graded area shall remain in an unstabilized condition for longer than thirty 30~~
4 ~~calendar days or longer than authorized by its approved Erosion Control Plan.~~

5
6 ~~5. In the event that earth-moving operations are discontinued or delayed, graded~~
7 ~~areas shall receive interim, or temporary cover, which is acceptable to the Agency,~~

8
9 ~~6. All areas disturbed by earth-moving operations, including slopes, channels, ditches,~~
10 ~~banks, must be stabilized as soon as possible after the final grade has been established~~

11
12 ~~7. Storm water runoff from areas disturbed by earth-moving operations shall be~~
13 ~~collected and diverted to facilities for removal of sediment prior to discharge to any surface~~
14 ~~or marine waters of the Territory~~

15
16 ~~8. All facilities which are authorized by an Erosion Control Plan and which are necessary~~
17 ~~to protect areas from erosion during the stabilization period shall be properly maintained until~~
18 ~~such stabilization is complete.~~

19
20 **Section 10108. Permit Fees.**

21
22 **A. Applicability.**

23 All applicants (e.g.: private individuals, federal agencies, and Government of Guam agencies
24 or departments, including autonomous and semi-autonomous agencies) for earth-moving
25 operations permits, shall pay required permit fees.

26
27 **B. Grading permits.**

28 1. Before issuing a grading permit clearance, the Administrator shall collect site grading plan
29 review fees based on the volume of excavation or fill measured in place according to the

1 following schedules:

2
3 TABLE A - GRADING PLAN REVIEW FEES

4
5 50 cubic yards or less ----- No Fee

6
7 51 to 100 cubic yards ----- \$15.00

8
9 101 to 1,000 cubic yards ----- \$22.50

10
11 1,001 to 10,000 cubic yards -- ----- \$30.00

12
13 10,001 to 100,000 cubic yards ----- \$30.00 for the first 10,000 cubic yards,
14 plus \$15.00 for each additional 10,000 cubic yards or fraction thereof.

15
16 100,001 to 200,000 cubic yards ----- \$165.00 for the first 100,000 cubic
17 yards, plus \$9.00 for each additional 10,000 cubic yards or fraction thereof.

18
19 200,001 cubic yards or more ----- \$225.00 for the first 200,000 cubic
20 yards, \$4.50 for each additional 10,000 cubic yards or fraction thereof.

21
22 2. The fee for a grading permit authorizing additional work to that under a valid permit shall
23 be the difference between the fee paid for the original permit and the fee shown for the entire
24 project.

25
26
27 C. Fees for additional plan reviews.

28 Additional plan reviews required for any changes, additions or revisions to approved plans are
29 \$30.00 per hour, or the total hourly cost to the jurisdiction, whichever is the greatest. This cost

1 shall include those associated with supervision, overhead, equipment, hourly wages and fringe
2 benefits of the employees involved.

3
4 D. Clearing and grubbing permits.

5 Before issuing a clearing and grubbing permit clearance, the Administrator shall collect a
6 clearance fee of \$20.00 for clearing & grubbing areas greater than 15,000 square feet plus
7 \$2.00 per each additional 1,000 square feet or fraction thereof. No fee shall be charged for
8 clearing and grubbing less than 15,000 square feet.

9
10 E. Stockpiling permits.

11 Before issuing a stockpiling permit clearance, the Administrator shall collect a permit
12 clearance fee of \$7.50 for stockpiling in excess of the 100 cubic yards, plus \$1.50 for each
13 additional 100 cubic yards or fraction thereof.

14
15 F. Work occurring without a permit.

16 Where work for which a permit is required by these regulations has commenced or has been
17 accomplished without a permit, a permit shall be obtained, and two times the fees specified
18 above shall be assessed, provided that such work complies with or may be made to comply
19 with the requirements of these regulations. If the grading/clearing/ stockpiling/ grubbing work
20 accomplished or commenced cannot be made to comply with the provisions of these
21 regulations, the person or persons responsible for the initiation or accomplishment of such
22 grading work shall restore the land to its original condition and shall obtain a certificate of
23 completion thereof from the Administrator. Notwithstanding the above, the person or persons
24 responsible for such grading/clearing/ grubbing/stockpiling shall be deemed to have violated
25 the provisions of these regulations by performing such activity/ies without a permit.

26
27 G. Water Protection Fund.

28 All permit fees, monetary charges, fines, and penalties assessed, collected or received by
29 GEPA pursuant to this regulation and other regulations promulgated under the Water Pollution

1 Control Act, as well as contributions and assets made for the purpose of improving water
2 quality or preventing water pollution, shall be deposited into the Water Protection Fund. The
3 Water Protection Fund shall be established as separate and apart from any other funds of the
4 Government of Guam, and shall be administered by the Administrator. Independent records
5 and accounts shall be maintained in connection therewith. The funds shall be used for the
6 administration and implementation and enforcement of the Water Pollution Control Act and
7 regulations promulgated from said Act, for educational programs and grants for research and
8 development, advertisement promotions, and inspections of facilities to prevent or minimize
9 erosion that contributes to pollution of the waters.

10
11 **Section 10109. Permit Expiration.**

12 **A. Grading, clearing and grubbing and stockpiling permits.**

13 All grading, clearing and grubbing or stockpiling permits shall expire and become null and
14 void under the following circumstances:

15
16 1. If permitted work is not started within 180 calendar days after the date of issuance of the
17 permit; or

18
19 2. If work is suspended or abandoned any time after the work is commenced for a minimum
20 period of 60 days; or

21
22 3. If work is continued without interruption for one year, beginning with the date of issuance
23 of the permit, or is completed within the time frame provided in the approved permit
24 application, whichever comes first.

25
26
27 **B. Stockpiling permits.**

28 Every stockpiling permit shall expire and become null and void one year after the date of
29 issuance. Prior to the expiration of the stockpile permit, all stockpiled material temporarily

1 stored on the premises shall be removed from the premises or used on the premises as fill
2 material under a grading permit for fill.

3
4 C. Permit expiration.

5 Once a permit has expired, the owner/applicant shall pay the required fees and obtain a new
6 permit pursuant to these regulations, before beginning new work. If the owner begins work
7 with obtaining a new permit, the owner shall pay the necessary penalty fees pursuant to these
8 regulations.

9
10 Section 10110. Stop Work Order.

11 A. Unacceptable conditions.

12 Whenever the Administrator determines that any permitted clearing & grubbing, grading, or
13 stockpiling is or may become unstable or dangerous, endangers property, adversely affects the
14 safety, use, or stability of a public way or drainage channel, or results in a violation of the
15 Guam Water Quality Standards, the owner of the property, or other person or agent in control
16 of the property, on receipt of notice in writing from the Administrator, shall abate the danger,
17 implement necessary corrective measures, and shall conform with the requirements of these
18 regulations. The Administrator, or his authorized representative, shall have the authority to
19 enter the property and investigate, and enforce the provisions of this section. A hearing will
20 be held as required under 10 GCA Section 47110.

21
22 B. Stop work order procedures.

23 If the Administrator determines that the work must stop due to unstable or dangerous
24 conditions, the Administrator shall issue a stop work order to the owner/contractor of the
25 property and transmit a copy of the order to the Department of Public Works Building Permit
26 Section. Both GEPA and the Department of Public Works shall jointly enforce the stop work
27 order.

28 C. Work occurring without a permit.

29 Notwithstanding the above, if an earth-moving operation is occurring without a valid permit

1 the Agency can order the operation to immediately cease and either require the violator to
2 obtain an after the fact permit, or if the operation cannot be permitted, to have the violator take
3 corrective measures to return the land to its previous condition.

4
5 **Section 10111. Suspension or revocation of Permit.**

6
7 **A. Criteria for suspending or revoking permits.**

8 The Administrator shall, in writing, suspend or revoke a permit issued under the provisions
9 of these regulations whenever: the permit has been issued on the basis of incorrect information
10 supplied by the permittee; existing site conditions are found not to be in accordance with the
11 terms and conditions of the permit; it is determined that the permittee has not complied with
12 a provision of any other applicable law, ordinance rule or regulation of the Guam; the clearing
13 and grubbing, grading or stockpiling discloses conditions that are objectionable or unsafe; or
14 an immediate danger exists in a downstream/adjacent area.

15
16 **B. Process for recommencing work.**

17 When a permit has been suspended the permittee may submit details and proposals for
18 compliance with the provisions of these regulations, and any other applicable laws, rules or
19 regulations of Guam. Upon approval of such plans and proposals by the Administrator, the
20 Administrator shall authorize the permittee, in writing, to proceed with the work.

21
22 **C. Non-compliance**

23 Non-compliance with the correction notice or stop work order issued for the construction of
24 the sediment and erosion control practices, and/or the construction of storm water management
25 facilities may result in the revocation of the issued permit.

26
27
28 **Section 10112. Inspections.**

1 A. Access to the site.

2 Each permit issued under these regulations shall be deemed to include the right of the
3 Administrator or his authorized representative to enter at reasonable time upon any property
4 to inspect the clearing and grubbing, grading, or stockpiling operations. Such inspections may
5 take place before, during and after any earth change activity for which a permit has been issued
6 to ensure that control measures are properly installed or performed and maintained at the
7 expense of the applicant.

8
9 **Section 10113. Enforcement.**

10
11 A. Pollution.

12 If the Agency determines that a person is conducting operations ~~in a~~ which ~~is~~ are causing or
13 ~~is~~ are likely to cause pollution, the Administrator may order the owner or operation to take
14 of corrective measures needed to prevent or cease the pollution.

15
16 B. Water pollution.

17 If the operation is causing or is likely to cause alteration of physical, chemical, or biological
18 properties to the waters of Guam, resulting from sediment, deposition presenting an imminent
19 and substantial danger to the public health, safety or welfare, or the health of animals, fish or
20 aquatic life, to a public water supply or to other reasonable uses of water, the Administrator
21 can issue an order requiring the cessation of relevant activities and implementation of
22 corrective measures. In emergency situation, any order issued by the Administrator shall
23 become final no later than 24 hours after the date of the notice and order served.

24
25 C. Voluntary compliance.

26 Nothing in these regulations shall prevent the Agency from making efforts to obtain voluntary
27 compliance through warning, conference or any other appropriate means.

28
29 D. Permit violations.

1 Whenever the Agency has reason to believe that a violation of any Section of these regulations
2 has occurred, it shall cause written notice to be served upon the alleged violator or violators.
3 The notice shall specify the provision of these regulations alleged to be violated, and the facts
4 alleged to constitute a violation thereof, and may include an order that necessary corrective
5 action be taken within a specified time. Any such order shall become final unless, no later
6 than fifteen (15) days that after the date of the notice and order served, the person or persons
7 named therein request in writing a hearing before the Agency. Upon such a request, the
8 Agency shall hold a hearing. In lieu of an order, the Agency shall require that the alleged
9 violator or violators appear before the Agency for a time and place specified in the notice and
10 answer the charges complained of, or the Agency may initiate action pursuant to Section
11 10116 of these regulations.

12
13 E. Corrective actions.

14 If, after a hearing is held pursuant to this Section, the Agency finds that a violation or
15 violations have occurred, it shall affirm or modify the order previously issued or issue an
16 appropriate order or orders for the prevention, abatement, or control of the erosion or
17 sedimentation involved or for the taking of such other corrective action as may be appropriate.
18 If, after hearing on an order contained in a notice, the Agency finds that no violation has
19 occurred or is occurring, it shall rescind the order. Any order issued as part of a notice or after
20 hearing may prescribe the date or dates by which the violation or violations shall cease and
21 may prescribe timetables for necessary action in preventing, abating, or controlling soil
22 erosion.

23
24 F. Appeals.

25 No later than ~~ten (10)~~ fifteen (15) days after the issuance of the final order of the Agency, an
26 appeal to the Superior Court of Guam may be made against any decision of the Agency by any
27 person who is or may be adversely affected thereby.

1 G. Corporate violations.

2 Whenever a corporation violates any provisions of these regulations, it shall be deemed that
3 the individual directors, officers, or agents of the corporation, acting in their capacity as
4 directors, officers or agents of such corporation, have authorized, ordered or done the acts
5 constituting the violations.

6
7 H. Emergency Procedures.

8 1. Any other provisions of law to the contrary notwithstanding, if the Administrator finds that
9 a generalized condition of pollution exists, and that it creates an emergency requiring
10 immediate action to protect the intended uses of the water as designated in the Standards of
11 Water Quality for Waters of Guam, or to protect human health or safety, the Administrator,
12 with the concurrence of the Governor, shall order persons causing or contributing to the
13 pollution to reduce or discontinue immediately the pollutants, and such order shall fix a place
14 and time, not later than twenty-four (24) hours thereafter, for a hearing to be held before the
15 Agency. Not more than twenty-four (24) hours after the commencement of such hearing, and
16 without adjournment thereof, the Agency shall affirm, modify or set aside the order of the
17 Administrator.

18
19 2. In the absence of a generalized condition of pollution of the type referred to in Subsection
20 (1), but if the Administrator finds that pollutants from the operation of one or more polluting
21 sources is causing imminent danger to the intended uses of the water as designated in the
22 Standards of Water Quality for Waters of Guam or is causing imminent danger to human
23 health or safety, he may order the person or persons responsible for the operation or operations
24 in question to reduce or discontinue pollutants immediately, without regard to the provision
25 of Subsection (a) of §47109, Chapter 47, 10 GCA of this Act. In such event, the requirements
26 for hearing and affirmance, modification or setting aside of orders set forth in Subsection (1)
27 of this Section apply.

1 **Section 10114. Penalties, Liability, and Severability Clause**

2
3 **A. Penalties.**

4 1. Administrative - Where work for which a permit is required by these regulations has been
5 commenced or has been accomplished without a permit, a permit shall be obtained and a
6 penalty fee paid equal to two (2) times the amount of the required fee to be assessed under
7 Section 10107 Permit fees of these regulations. The Administrator shall assess the required
8 clearance fee and penalty fee provided that the work complies or may be made to comply with
9 the provisions of these regulations. If the activity accomplished or commenced cannot be
10 made to comply with the provisions of these regulations, the person or persons responsible
11 for the initiation or accomplishment of such activity shall restore the land to its original
12 condition and shall obtain a certificate of completion from the Administrator. The person or
13 persons who performed such activity shall be deemed to have violated the provisions of these
14 regulations by performing an activity without a permit and may be subject to enforcement
15 action pursuant to this section.

16
17 2. **Criminal - Any person who violates any provision of these regulations shall be guilty of**
18 **a misdemeanor and subject on account thereof to a fine of not to exceed One Thousand Dollars**
19 **(\$1,000.00). Each day of violation shall constitute a separate offense.**

20
21 3. **Civil - Action pursuant to Section 10116 (1)(b) of this Section shall not be a bar to**
22 **enforcement of these regulations, by injunction or other appropriate remedy and the Agency**
23 **shall have the power to institute and maintain in the name of Guam any and all such**
24 **enforcement proceedings..**

25
26 4. **Nothing in these regulations shall be construed to abridge, limit impair, create, enlarge or**
27 **otherwise affect substantively or procedurally the right of any person to damages or other relief**
28 **on or other appropriate proceedings therefor.**

Vertical line on the left side of the page.

1 **B. Liability.**

2 The provisions of these regulations shall not be construed to relieve or alleviate the liability
3 of any person for damages resulting from performing, or causing to be performed, by grading,
4 grubbing or stock-piling operation. The Government of Guam, GEPA, its officers and
5 employees shall be free from any liability, cost or damage which may accrue from any grading,
6 grubbing or stockpiling or any work connected therewith, authorized by these regulations.

7

8 **C. Severability Clause.**

9 If any provisions of these rules, or its application to any person or circumstances, is held
10 invalid, the application of such provision to other persons or circumstances, and the remainder
11 of these rules, shall not be affected thereby.

GUAM SOIL EROSION AND SEDIMENTATION CONTROL REGULATIONS

SECTION 10108: PERMIT FEES

SECTION C. FEES FOR ADDITIONAL PLAN REVIEW

The additional fee of \$30 per hour is reasonable and low as compared to salaries of Engineers now employed at Guam EPA and private consulting engineers as compared below:

Guam EPA Engineers (Salary with Fringe Benefits)		Private Consulting Engineers (Salary with Fringe Benefits and 3.5% Overhead and profits)	
Engineer I	\$ 17.07/hour	Project Engineer	\$ 93.15/hour
Engineer II	\$ 26.12/hour	Civil Engineer	\$ 93.15/hour
Engineer III	\$ 37.67/hour	Project Manager	\$113.85/hour
Chief Engineer	\$ 40.07/hour	Principal Engineer	\$155.25/hour

Section 10106. Special Requirements

F. Protection of Sink Holes

Earth-moving operations shall not be performed in sink holes or in such close proximity as to threaten their viability, function or the conveyance of surface water into such features unless specifically authorized by the Administrator. In the event a developer proposes to modify or use a sinkhole, an environmental and hydrogeologic assessment must be performed to ensure adverse affects will not result, including but not limited to the displacement of groundwater, interference with well production, significant changes to groundwater recharge, flooding, or the threat or introduction of any pollutant to groundwater, regardless of zone or category.

Guam Environmental Protection Agency
P.O. Box 22439 GMF, Barrigada, Guam 96921

TESTIMONY

Before the 25th Guam Legislature
Committee on Natural Resources
Regarding Bill 392

**An Act to Establish the Guam Environmental Protection Agency (Guam EPA)
Guam Soil Erosion and Sedimentation Control Regulations**

Submitted By:

Jesus T. Salas, Administrator
Guam Environmental Protection Agency

March 7, 2000

Good Morning, Madame Chairperson and Members of the Committee on Natural Resources. For the record, my name is Jesus T. Salas, Administrator of the Guam Environmental Protection Agency. I would like to thank you for inviting Guam EPA to testify in support of Bill 392.

Soil erosion and sedimentation is one of the island's most serious nonpoint sources of water pollution. It affects the purity of streams and marine waters of Guam and causes unreasonable damage to fish and marine life in general.

Water generated erosion and sedimentation, especially when influenced by earthmoving operations/activities, can become a serious environmental problem when they destroy natural vegetation, expose the soil surface and alter drainage patterns. The accelerated soil erosion must be controlled in order to minimize damage to Guam's water and land resources.

In addressing soil erosion problems on Guam, Guam EPA promulgated, in December 1975, the first Guam Soil Erosion and Sedimentation Control Regulations under the authority of 10 Guam Code Annotated (GCA), Chapter 47. The regulations were later revised in May 1985.

During this latest review process, the regulations were released by Guam EA for preliminary review by the Guam Board of Directors and staff, several GovGuam departments and agencies, military and several consulting Engineers from March 1994 to November 1997.

The proposed revisions address important provisions that will eliminate and/or minimize nonpoint source pollution within Guam's waters such as fertilizers, pesticides and other polluting substances carried by sediment, protect property and promote public health, safety and welfare by regulating grading, clearing, grubbing and stockpiling, and set specific requirements for erosion and sedimentation control within the Island of Guam.

The proposed regulations expand the purpose and applicability by including grubbing and stockpiling to be permitted and redefine exemptions from the regulations.

The regulations added a section dealing with permit issuance and denials. It defines when a permit is required and establishes the permitting process and requirements needed to be included in the permit application applicable to such activity being requested to be permitted and factors to be considered in the denial of a permit application which are not included in the previous regulations.

It expanded the general policies for Erosion and Sediment Control and clarifies the contents of the Erosion Control Plan that is approvable by Guam EPA , including the construction schedule, control of storm water runoff, disposal of spoil materials, stockpiles and stabilization of affected areas.

A special requirement under the proposed regulations has been added for the protection of adjoining properties by requiring any person performing excavation or fill to provide the necessary means to prevent the movement of earth materials or discharge of storm water runoff to adjoining properties. It also provides provisions for the protection of public utilities, removal of silt or debris in ditches, water courses and drainage facilities and safety precautions for the protection of life, limb and property.

A section of permit fees has been included authorizing the Administrator of Guam to assess fees for plan review and inspections for applicants applying for clearing, grading, grubbing and stockpiling permits. The plan review fee schedule was patterned after the fees established by the Uniform Building Code adopted by Guam

Fees collected shall be deposited into the Water Protection Fund and shall be administered by the Administrator. The fund shall be used for the administration, implementation and enforcement of the Water Pollution Control Act and regulations promulgated from said Act.

As usual, I will make my staff available to assist your Office to further expedite changes that will enhance these soil erosion and sediment control regulations and ultimately help protect the oceans, reefs, and surrounding property through stronger monitoring of earth moving activities on Guam. The approval of these regulations is timely because of the slowdown in development which will provide this Agency the opportunity to educate contractors, developers, and the general public on the proper methods to minimize or eliminate soil erosion.

Mina' Bente Singko Na Liheslaturan Guahan

COMMITTEE ON NATURAL RESOURCES

PUBLIC HEARING

Tuesday, March 7, 2000, 9:00 a.m.

Bill No. 392 (LS)- An Act to Establish the Guam Environmental Protection Agency (GEPA) Guam Soil Erosion and Sedimentation Control Regulations

SIGN IN SHEET

<i>Name</i>	<i>Representing</i>	<i>Oral Testimony</i>	<i>Written Testimony</i>
J T SALAS	GEPA		✓
Randy Sablan	GEPA	✓	
Domingo Cabusao	GEPA	✓	

40
Pacific Daily News, Tuesday, February 29, 2000

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MINA BENTE SINGKO NA LIHESLATURAN GUAHAN



Committee on Natural Resources
 Senator Joanne M. S. Brown
 Chairperson

Notice of Public Hearing

The Committee on Natural Resources will be conducting a Hearing on Tuesday, March 7, 2000, 9:00 a.m., at the Legislative Public Hearing Room, 155 Hesler Street, Hagatna on the following:

Appointment of Mr. Alfred P. Benavente, Acting Member, Guam Waterworks Authority, Board of Directors

Appointment of Mr. Greg S. Kalbaugh, Acting Member, Guam Environmental Protection Agency, Board of Directors

Bill No. 392 (LS) AN ACT TO ESTABLISH THE GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA) GUAM SOIL EROSION AND SEDIMENTATION CONTROL REGULATIONS

ADA Coordinator: Ann Legaspi at 472-3450/51
 The public is invited to attend.

upon request. Call
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 \$5,130,000-call for
AGAT: 7 units apt.
 \$650/mo. (2459)
LIGUAN TERRA:
 house. Asking \$170.
DEDEDO: Not too
 roof on 1/2 acre. AS
CARLOS HGTS:
 care or apts. Near A.
MACHANAO: Brz
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 many fruit trees. \$14
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PACIFIC SUNDAY NEWS, March 5, 2000

BUSINESS

Gas prices fuel anti-SUV

Gannett News Service

For anyone ever tormented by sport-utility vehicles that hog highways, swallow parking spaces and guzzle gas, the sharp recent rise in gas prices is payback time. Revenge of the car needs? Maybe. "It's kind of nice to see

blinding. All my friends have gone out and gotten them. As far as I'm concerned, they can have them. The little guys are laughing now." Winter drives a Toyota Avalon (21/29 mpg). **Little sympathy** Among those also amused: A Paul Carroll, Gas

pay more, maybe you shouldn't have these vehicles in the first place. Michael Feinstein of Santa Monica, Calif. "People who think about environmental and social values were laughed at for doing so in the past. Now they are the ones who get the last laugh," said

ment. Jay Karo Web site, The Prosec Sport U (<http://prosec.4x>) more than 15. month. When you son driving a big highway, it's ruving it is ineff

of Chicago where premium gas costs about \$1.85 a gallon and \$2 in the city. "Some SUV owners, however, have been driven to stealing gas. Shreveport, La. gas station owner Al Carroll says two people in large SUVs drove off without paying for \$22 and \$28 worth of gas.

Price be damned, the Walter Mitty in most of us appears to prefer machismo over mini. So although most SUVs are used as little more than glorified station wagons that seldom tackle anything rougher than speed bumps, for plenty of consumers, just knowing that they can handle any "Road Warrior" situation can be rationale for owning one.

But as the tab to fill up the largest SUVs climbs to \$30 or more, consumers with long-simmering SUV resentment are relishing the moment.

"Hopefully the gas prices will lessen the enthusiasm for those things," laughs physicist John Mergenthaler, eyeing a Ford Explorer at a Shell station in Palo Alto, Calif.

Says Louisville, Ky. restaurateur Lynn Winter, who detests SUVs because their elevated headlights are

QTY	OCCUPATION	RATE PER HOUR
3	Carpenters	\$11.25/hr.
13	Cement Masons	\$10.03/hr.
1	Plasterer	\$9.57/hr.
3	Electricians	\$13.35/hr.

Benefits: Semi-private concrete barracks available if desired, with 3 meals per day provided at \$320.00/mo. Free local transportation to job site and return. Call 649-7200 for appointment from 1:00PM to 4:00PM.

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MINA BENTE SINGKO NA LIHESLURAN GUAHAN
 Committee on Natural Resources
 Senator Joanne M. S. Brown
 Chairperson

Notice of Public Hearing
 The Committee on Natural Resources will be conducting a Hearing on Tuesday, March 7, 2000, 9:00 a.m., at the Legislative Public Hearing Room, 155 Hessler Street, Hagatna on the following:

Appointment of Mr. Alfred P. Benavente, Acting Member, Guam Waterworks Authority, Board of Directors
 Appointment of Mr. Greg S. Kalbaugh, Acting Member, Guam Environmental Protection Agency, Board of Directors

Bill No. 392 (L.S.) - AN ACT TO ESTABLISH THE GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA) GUAM SOIL EROSION AND SEDIMENTATION CONTROL REGULATIONS

ADA Coordinator: Ann Leggett at 472-3458/51
 The public is invited to attend.

The Department in development to help We are seeking Specialist. The insular policy towards issues of national briefings on regarding freely associated. Requirement equivalents U.S. citizen permitted circumstances the position perform the Applicant Management number: (7) full potential.

MINA' BENTE SINGKO NA LIHESLATURAN GUAM

COMMITTEE ON NATURAL RESOURCES

**SENATOR JOANNE M. S. BROWN
CHAIRPERSON**

CONFIRMATION HEARINGS

&

PUBLIC HEARING

TUESDAY, MARCH 7, 2000

9:00 a.m.

A G E N D A

- 1. Introduction of Committee Members**
- 2. Commencement of Confirmation Hearings**
 - A) Mr. Alfred P. Benavente, Acting Member
Board of Directors, Guam Waterworks Authority**
 - B) Mr. Greg S. Kalbaugh, Acting Member
Board of Directors, Guam Environmental Protection Agency**
- 3. Public Hearing for Bill No. 392 (LS)- An Act to Establish the Guam
Environmental Protection Agency (GEPA) Guam Soil Erosion and
Sedimentation Control Regulations**
- 4. Public Comment**
- 5. Adjournment**

Bureau of Budget & Management Research
Fiscal Note of Bill No. 392 (LS)

MAR 14 2000

Bill Title (Preamble): AN ACT TO ESTABLISH THE GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA) GUAM SOIL EROSION AND SEDIMENTATION CONTROL REGULATIONS.

Department/Agency Appropriation Information	
Dept./Agency Affected: GEPA	Dept./Agency Head: Jesus Salas
General Fund appropriation(s) to date:	\$ 863,822
Other Fund (specify): Federal Match appropriation(s) to date:	\$ 1,349,831
Total Department/Agency Appropriation(s) to date:	\$ 2,213,653

Fund Source Information of Proposed Appropriation			
	General Fund	Other (specify):	Total
FY Adopted Revenues	450,867,633		
FY Appro. to P.L. 25-98	449,845,214		
Sub-total	1,022,419		
Less appropriation in Bill	N/A		
Total	1,022,419		

Estimated Fiscal Impact of Bill						
	One full FY	For remainder of current FY (if appli.)	Second Year	Third Year	Fourth Year	Fifth Year
General Fund	1/					
Other Fund:						
Total						

- Does the bill contain "revenue generating" provisions? / X / Yes / / No
If yes, see attachment/footnote.
- Is amount appropriated adequate to fund the intent of the appropriation? N/A / / Yes / / No
If no, what is the additional amount required? \$ _____
- Does the Bill establish a new program/agency? / / Yes /X/ No
If yes, will the program duplicate existing programs/agencies? / / Yes /X/ No
Is there a federal mandate to establish the program/agency? / / Yes /X/ No
- Will the enactment of this Bill require new physical facilities? / / Yes /X/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: /X/ Yes / / No
/ / Requested agency comments not rec'd by due date / / Other: _____

Analyst: <u>Dina F. Chock</u>	Date: <u>3/1/00</u>	Director: <u>Joseph E. Rivera, Acting</u>	Date: <u>MAR 14 2000</u>
-------------------------------	---------------------	-------------------------------------------	--------------------------


Footnotes: 1/ The Bill's intent is to approve the Guam Environmental Protection Agency (GEPA) Guam Soil Erosion and Sedimentation Control Regulations. However, if enacted, revenues could be generated from the collection of permit fees, from monetary charges, fines, and from penalties assessed as set under the Water Protection Fund (as created in the Regulations attached to this Bill).

Handwritten: 2 2000
Stamp: [illegible]

**MINA 'BENTE SINGKO NA LIHESLATURAN GUAHAN
2000 (SECOND) REGULAR SESSION**

Bill No. 392 (CS)

Introduced by:

J.M.S. Brown 

**AN ACT TO ESTABLISH THE GUAM ENVIRONMENTAL
PROTECTION AGENCY (GEPA) GUAM SOIL EROSION AND
SEDIMENTATION CONTROL REGULATIONS**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** In accordance with the
3 Administrative Adjudication Law, §9303 of Title 5 of the Guam Code Annotated, as
4 amended by Public Law Number 24-27, on December 10, 1997 the Guam
5 Environmental Protection Agency (GEPA) transmitted to I Liheslaturan Guahan, the
6 "*Guam Environmental Protection Agency Guam Soil Erosion and Sedimentation*
7 *Control Regulations.*" I Liheslaturan Guahan agrees with the regulations as
8 presented and seeks to approve said regulations.

9 **Section 2. Approval of GEPA Regulations.** I Liheslaturan Guahan hereby
10 approves the GEPA rules and regulations entitled, "*Guam Environmental Protection*
11 *Agency Guam Soil Erosion and Sedimentation Control Regulations,*" which were
12 transmitted to I Liheslaturan Guahan on January 25, 2000.

13 **Section 3. Severability.** If any provision of this Law or its application to any
14 person or circumstance is found to be invalid or contrary to law, such invalidity shall
15 not affect other provisions or applications of this Law which can be given effect
16 without the invalid provisions or application, and to this end the provisions of this
17 Law are severable.

EXHIBIT A

GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS

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5 22 GAR - GEPA
6 Division II - Water Control
7

8 CHAPTER 10
9 GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS
10
11

12 **Section 10100. Authority**
13

14 10 GCA Chapter 47 - "Water Pollution Control Act."
15

16 **Section 10101. General Provisions: Purpose, Scope, Applicability and Exemptions.**
17

18 A. Purpose.

19 Whereas soil erosion and sedimentation resulting from the construction of sub-divisions,
20 industrial and commercial developments, highways and other activities requiring excavation
21 and filling can affect the purity of wetlands, streams and marine waters on Guam and thereby
22 may cause unreasonable damage to aquatic and marine life in general; and whereas, the
23 pollution of wetlands, streams and marine waters must be controlled to ensure a reasonably
24 clean environment for the People of Guam; and whereas, the Guam Environmental Protection
25 Agency has been vested with the responsibility to maintain at all times a high quality of
26 environment to guarantee an enjoyable life for all people at present and in the future; and,
27 whereas, the environmental degradation of the quality of land, water and air by any pollutants,
28 including all physical, chemical and biological agents, should not be allowed; and, whereas,
29 the Guam Environmental Protection Agency has been vested with the responsibility to
30 conserve surface and groundwater resources and to protect, maintain and improve the quality
31 and potability thereof; it is declared ~~to be~~ that the purpose of these regulations is to control
32 accelerated soil erosion, ~~and the resulting sedimentation of the waters of the Territory thereby~~

1 preventing the pollution of Guam's waters from fertilizers, pesticides, sediments and other
2 polluting substances carried by sediment, and to protect property and to promote the public
3 health, safety and welfare by regulating grading, clearing, grubbing and stockpiling, and by
4 setting minimum standards for erosion and sedimentation control for the Island of Guam.

5
6 It is also the purpose of these regulations to manage nonpoint source pollution consistent with
7 the latest "Guam Nonpoint Source Program", the "Guam Erosion & Sedimentation Manual"
8 guidelines and recommendations, the comprehensive approach set forth in Section 6217 of the
9 Coastal Zone Act Reauthorization Amendments of 1990, "Protecting Coastal Waters",
10 codified as 16 U.S.C. §1455(b), and the "Guidance Specifying Management Measures for
11 Sources of Nonpoint Pollution in Coastal Waters" (EPA/840-B-92-002, dated January 1993)
12 issued under the authority of Section 6217(g) of the Coastal Zone Act Reauthorization
13 Amendments of 1990 recommendations.

14
15 B. Scope.

16 The provisions of these regulations impose requirements on those earth-moving activities
17 which create accelerated erosion or a danger of accelerated erosion and which require planning
18 and implementation of effective soil conservation measures. These regulations set forth
19 requirements for the control of grading, clearing and grubbing, and stockpiling, set limits for
20 erosion and sedimentation, establish administrative procedures and minimum requirements
21 for issuance of permits and provide for the enforcement of such rules and regulations.

22
23 C. Applicability.

24 These regulations apply to all clearing, grubbing, grading, embankment or filling, excavating,
25 stockpiling or other earth-moving operations on Guam which require a permit as provided for
26 in 21 Guam Code Annotated, Chapter 66 (as amended). Such applicable clearing or
27 earth-moving operations include those performed by private and governmental sectors,
28 including, the Government of Guam and federal agencies on Guam. The Administrator shall
29 review every application for a permit for earth-moving operations in order to determine

1 applicability or exemption, as provided for in Section, Sub-Section D, below.

2
3 D. Exemptions.

4 An application for a clearing, grubbing, grading, embankment or filling, excavating or other
5 earth-moving activity shall be submitted to the Agency for review, and approved before the
6 activity is started. The following earth-moving activities may be exempted from these
7 regulations if the Administrator, in writing, determines that the scope or size of the activity
8 will not create either an erosion or other hazard to surface or marine waters of Guam:

9
10 ~~1) A clearing, grading, filling, excavating or other earthmoving activity may be~~
11 ~~exempted from these regulation by the Administrator if, in his discretion, he determines in~~
12 ~~writing that the scope, or size of such earth-moving activity does not require compliance with~~
13 ~~these regulations~~

14 ~~2) The following earth-moving activities and operations are exempt from these regulations~~
15 ~~except in cases where the Administrator, in his discretion, determines that these regulations~~
16 ~~shall apply.~~

17
18 1. Clearing, grading and filling for the purpose of constructing a house, pad or driveway for
19 a one- or two-family residence;

20
21 2. Grading in an isolated, self contained area; provided there is no apparent danger of erosion;
22

23 3. An excavation for basements, footings, retaining walls or other structures which are
24 authorized by a valid building permit. Such exemption exemptions shall not include any
25 excavation where dewatering is undertaken, nor any fill is made with the excavated material,
26 nor or any unsupported excavation of more than five feet deep which is excavated after the
27 completion of such structures.

28
29 4. Clearing & grubbing individual cemetery graves or plots without using heavy equipment.

1 5. Excavations for wells, tunnels or utilities, which are permitted under different rules &
2 regulations.

3
4 6. Exploratory excavations for wells or for the purpose of soils testing, provided that no
5 clearing and grubbing or grading is to be performed; otherwise a permit is required.

6
7 7. Any excavation which is less than two feet in depth or which creates a cut slope less than
8 five feet in height and no steeper than a slope ratio of 1-1/2 horizontal to 1 vertical for
9 coralline type soil and 3:1 slope for clay type soil, provided that all slopes and open areas are
10 stabilized and vegetated.

11
12 8. Any fill which is less than one foot in height and placed on undisturbed terrain with
13 existing topography of a ratio less than 5 horizontal to 1 vertical and which does not obstruct
14 a drainage course, provided the area of the property does not exceed 5,000 sq. ft. and open
15 areas are properly stabilized and vegetated.

16
17 9. Field plowing and normal tilling operations, or clearing land or re-clearing for agricultural
18 purposes provided these activities or operations do not cause sediment and runoff water to
19 move beyond the edge of the farm boundaries and degrade the water quality of the receiving
20 water bodies, are performed in accordance with the guidelines and standards of Resource
21 Management Systems, approved by Guam's Soil Conservation District. Initial field plowing
22 or clearing land for agricultural purposes must be performed in accordance with the
23 implementation of a conservation management system that meets minimum standards
24 contained in the U.S. Field Office Technical Guides and approved by either the appropriate
25 Soil and Water Conservation District created by 5 GCA Chapter 63, in accordance with an
26 approved USDA Soil Conservation Service "Conservation Plan" or the Director of the Guam
27 Department of Agriculture.

28
29

1 10. Clearing and grubbing of land for the purpose of making topographic surveys, and hand
2 clearing of trails for survey lines and for access for soil exploration equipment.

3
4 E. Certain Rules of Word Usage

5 1. Words used in the present tense include the future tense, and the singular includes the plural
6 unless the context clearly indicates the contrary.

7
8 2. The term "shall" is always mandatory and not discretionary; and the word "may" is
9 permissive.

10
11 3. A word or term not interpreted or defined by this article shall be used with a meaning of
12 common or standard utilization.

13
14 **Section 10102. Definitions.**

15
16 A. Meanings of words and terms. The following words and terms, when used in these
17 regulations, shall have the following meanings, unless the context clearly indicates otherwise:

18
19 1. Accelerated erosion: The removal of the surface of the land through the combined action
20 of man's activities and natural processes at a rate greater than would occur because of the
21 natural process alone.

22
23 2. **Administrator:** The Administrator of the Guam Environmental Protection Agency or his
24 authorized representative.

25
26 3. **Agency:** The Guam Environmental Protection Agency (GEPA).

27
28 4. **Board:** Board of Directors, Guam Environmental Protection Agency.

- 1 5. Building pad: The compacted land area on which a structure is to be built.
2
- 3 6. Building permit: The official document issued by the Building Official, Government of
4 Guam, authorizing specific construction activities.
5
- 6 7. Channel: ~~shall mean~~ A natural stream that conveys water; a ditch excavated for the flow
7 of water.
8
- 9 8. Check dam: ~~shall mean~~ A structure used to reduce or prevent excessive erosion by
10 reduction of velocities in water courses.
11
- 12 9. Chutes/flumes: ~~shall mean~~ Channels of concrete or comparable material that are used to
13 conduct storm runoff down slopes where concentrated runoff would cause slope erosion.
14
- 15 10. Clearing and grading permit: An official document issued by the Building Official,
16 Department of Public Works, Government of Guam, authorizing specified earth-moving
17 operations. Such a permit requires the approval of the Director of Land Management and the
18 Administrator of the Guam Environmental Protection Agency, unless otherwise exempted by
19 the prevailing regulations, before ~~the~~ its issuance by the Building Official.
20
- 21 11. Clearing and grubbing: The removal of vegetation, including trees, timber, shrubbery,
22 and plants, when said vegetation is dislodged or uprooted from the surface of the ground, or
23 when removal of structures or other objects are removed from the ground in the course or
24 progress of construction or agricultural use.
25
- 26 12. Compaction: The densification of a fill by mechanical means.
27
- 28 13. Crimping: A method used to secure fiber mulches. The operation is performed by a
29 crimping machine which partially punches the mulch into the soil.

1 14. Deflection Structures: Stones ~~A stone~~, or concrete or wooden groins placed ~~constructed~~
2 in a river or stream at an angle outward from the shore in a downstream direction to deflect
3 the current away from a critical area of the bank.

4
5 15. Denuded: Bare; naked; stripped.

6
7 16. Developer: Any person who is engaged in land development. ~~A person or corporate~~
8 ~~entity who controls a land parcel from its acquired state through the process of urbanization.~~
9 ~~The acquired state may be wild or farm which is changed to a shopping center, housing unit,~~
10 ~~commercial unit or amenities, golf courses, etc.~~

11
12 17. Dissipate: To scatter; disperse; cause to vanish.

13
14 18. Diversion: To change the accustomed course of all or part of a stream or of sheet runoff.

15
16 19. Diversion dike: A temporary ridge of soil constructed at the top of a cut or fill slope to
17 divert overland flow from small area away from unstabilized slopes.

18
19 20. Diversion ditch: A ditch constructed to channel stream or sheet runoff into desired
20 directions, and may also be referred to as Interceptor Channel.

21
22 21. Diversion terrace: A channel or dike constructed up slope of an area for the purpose of
23 diverting storm water runoff.

24
25 22. Earth material: Any rock, coral, sand, gravel, natural soil or fill /or any combination
26 thereof.

1 23. Earth-moving operations/activities: Human caused alterations to the existing topography.
2 Also see clearing, grading, filling and excavation. Any construction or other activity which
3 disturbs the surface of the land including, but not limited to, clearing, grading, grubbing,
4 excavation, embankment, construction, and development, subdivision development, mineral
5 extraction, sand mining, and the moving, depositing or storing of earth material.

6
7 24. Embankment or fill: An act by which soil, rock, or other materials are placed or deposited
8 by man or by artificial means, and the resulting placements or deposit. A placement of soil,
9 rock, or other material by man.

10
11 25. Engineer: A person duly registered as a professional civil and/or structural engineer on
12 Guam.

13
14 26. Engineer's Soils Report: A report on soils conditions prepared by an a professional
15 engineer qualified in the practice of civil and/or structural engineering.

16
17 27. Environmental Impact Statement: A comprehensive and systematic assessment of
18 environmental impacts which would likely result from a human activity or action. Its purpose
19 is to provide, in part, a basis for making decisions which will affect the human condition as
20 well as the purely biological or natural conditions of our environment. It should provide a
21 reasonable set of alternatives and a preferred option which appropriately balances various
22 environmental concerns, including financial, social or cultural concerns. The assessment
23 should rely on proven assessment methods both scientific and political.

24
25 28. Environmental Protection Plan: A document describing, for a proposed development, the
26 methods/equipment selected for use, expected environmental problems during and after
27 construction, and methods and equipment chosen to avoid, mitigate or control potential
28 adverse effects on the environment.

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29. Erosion: (1) The wearing away of the land surface by ~~running~~ water, wind, or other geological agents. (2) Detachment and movement of soil or rock fragments by water, wind or gravity.

30. Erosion check: ~~A technique whereby porous, material like is installed in a slit trench~~ A slit trench filled with porous matter that is oriented perpendicular to the direction of flow in a ditch or swale to prevent the formation of rills and gullies. ~~gullied by permitting subsurface water migration without the removal of soil particles.~~

31. Erosion and sediment control: The control of earth material, both mineral and organic, during an earth-moving operation, intended to prevent its transport out of the operation area by means of air, water, or gravity.

32. Excavating: Lowering the existing ground elevation by earth-moving operations.

33. ~~Excavation or cut: An act by which earth material is cut into, dug, or moved and shall include the conditions resulting therefrom.~~ A cavity formed by digging, cutting, quarrying, uncovering, displacing or relocating soil or rock.

34. Existing grade: The grade prior to grading.

35. ~~Fill or filling: Raising the existing ground elevation by earth-moving operations.~~ A placement of soil, rock, or other material by man to raise the existing ground elevation.

36. Finish grade: The final grade of the site which conforms to the approved plan.

37. Grading: Establishing a topographical profile by earth-moving operations involving cuts and fills or excavation or other earth work activities.

- 1 38. House pad: The compacted land area on which a dwelling structure is to be built.
2
- 3 39. Interceptor channel: A channel or dike constructed across a slope for the purpose of
4 intercepting storm water, reducing the velocity of flow, and diverting it to outlets where it can
5 be disposed.
6
- 7 40. Interceptor dike: A temporary ridge of compacted soil across a graded right-of-way that
8 ~~are is~~ not subject to vehicular traffic, designed to intercept and divert storm runoff ~~and divert~~
9 ~~it~~ to temporary outlets where it can be disposed of with minimal erosion.
10
- 11 41. Intermittent stream: A stream or portion of a stream that flows only in direct response to
12 precipitation and receives little or no water from springs ~~and no long continued supply from~~
13 or other sources.
14
- 15 42. Jute Netting: A heavy woven jute mesh laid directly over seedbeds to minimize soil
16 erosion in critical areas until vegetation can become firmly established. Due to its thick
17 fibrous composition, it also functions as a mulch to conserve soil moisture, insulate against
18 solar insulation, dissipate energy from falling raindrops and reduce erosion caused by overland
19 flow.
20
- 21 43. Key: A designed compacted fill placed in an earthen trench excavated beneath the toe
22 of a proposed fill slope.
23
- 24 44. Land developer: Any person who is engaged in land development.
25
- 26 45. Land development: The constructing, installing, placing, planting, or building of surface
27 structures, utility lines, shopping centers and malls, golf courses, apartment complexes,
28 schools, roads, highways, parking areas, or any other similar activity.
29

- 1 46. Level spreader: An outlet constructed at zero grade across a slope to collect concentrated
2 runoff and covert it into sheet flow with non-erosive velocities onto areas stabilized by
3 existing vegetation.
4
- 5 47. Mulch: A natural or artificial layer of plant residue (fiber mulches) other materials, such
6 as sand or paper, on the soil surface.
7
- 8 48. Mulch blanket : Blanket type materials used in the establishment of vegetation on swales,
9 ditches and steep slopes where fiber mulch products do not provide sufficient levels of
10 protection during germination and early growth.
11
- 12 49. Netting: A method of securing fiber mulches through the use of jute, plastic, paper or
13 fiberglass nets on steep exposed slopes where crimping is not possible and tacking will not
14 perform satisfactorily.
15
- 16 50. Outcrop: To come to, or be exposed on the surface.
17
- 18 51. Permeability: The property of a porous material which permits the passage or seepage of
19 fluids, such as water for example, or air through its interconnection voids.
20
- 21 52. Permeable: Having a texture through which water can move. ~~that permits water to move~~
22 ~~through.~~
23
- 24 53. Permit: An official document or certificate issued by the Building Official, Government
25 of Guam, authorizing the performance of a specified activity.
26
- 27 54. Permittee: The recipient of an approved permit issued by the Building Official,
28 Government of Guam.
29

1 55. Person: Any individual, partnership, firm, association, organization, municipality, public
2 or private corporation, other types of private legal entities and public entities including any
3 subdivision, agency or instrumentality of the government of Guam or the Federal Government,
4 trust, estate or any other legal entity.

5
6 56. pH: A numerical measure of the acidity or hydrogen ion activity of a soil. (The neutral
7 point is pH = 7.0. All pH values below 7.0 are acid and all above 7.0 are alkaline).

8
9 57. Right-of-way: Right of passage over another person's land; a route that is lawful to use;
10 a strip of land acquired for transport or utility construction.

11
12 58. Riprap: Broken rock, cobbles or boulders placed on earth surfaces such as the face of a
13 dam or the bank of a stream, for protection against the action of water or waves; also applied
14 to brush or pole mattresses, or brush and stone, or other similar materials used for soil erosion
15 control.

16
17 59. Rough grade: The stage at which the grade approximately conforms to the approved plan.

18
19 60. Runoff: Water from rain or irrigation that flows over the ground ~~surface~~ to surface,
20 marine or ground waters. It can collect pollutants from air or land and carry them to the
21 receiving waters. Also, that part of the precipitation which runs off the surface of a drainage
22 area and reaches a stream, body of water, drain or sewer.

23
24 61. Sandbag sediment barrier: ~~shall mean~~ Temporary barriers or diversions that are
25 constructed of sandbags.

26
27 62. Sectional down drain: A prefabricated sectional conduit of half-round, bituminized fiber
28 pipe or other material used to conduct storm runoff from one elevation to another without
29 erosion of slope.

- 1 63. Sedimentation: The depositing of sediments.
2
- 3 64. Sediment retention basin: A temporary dam or basin, or a combination of both, that will
4 trap and store sediment produced on exposed areas and delivered to the structure by storm
5 runoff.
6
- 7 65. Sediments: Mineral or organic solid materials that settle to the bottom of water, are being
8 transported or have been moved from their site of origin by wind or water, and have come to
9 rest on the earth's surface, either above or below sea level.
10
- 11 66. Site: The spacial location, under the same ownership, of an actual or planned structure
12 or structures, or earth-moving activity.
13
- 14 67. Slope: An inclined ground surface, the inclination of which is expressed as a ratio of
15 horizontal distance to vertical distance.
16
- 17 68. Soil: ~~(1) The unconsolidated mineral and organic material found on the earth's upper~~
18 ~~layer, that may be dug or plowed and in which plants can grow, on the immediate surface of~~
19 ~~the earth that serves as a natural medium of the growth of land plants. (2) The unconsolidated~~
20 ~~mineral matter on the surface of the earth that has been subjected to and influenced by genetic~~
21 ~~and environmental factors of parent material, climate (including moisture and temperature~~
22 ~~effects), macro and micro organisms, and topography, all acting over a period of time and~~
23 ~~producing a product - soil - that differs from the material from which it is derived in many~~
24 ~~physical, chemical, biological, and morphological properties and characteristics.~~
25
- 26 69. Soil engineering: The application of the principles of soil mechanics in the investigation,
27 evaluation and design of civil works involving the use of earth materials, and the inspection
28 and/or testing of the construction thereof.
29

1 70. Soil erodibility factor (k): A measure of the susceptibility of soil particles to detachment
2 and transport by rainfall and runoff.

3
4 71. Soil slopes: All denuded cut, fill or natural soil constituted slopes.

5
6 72. Stabilization: The proper placing, grading and/or covering of soil, rock or earth to insure
7 its resistance to erosion, sliding, or other movements.

8
9 73. Stockpiling: Temporary open storage of earth materials upon any premises where a
10 grading permit has been issued for the purpose of using the materials at some other premises
11 at a future time.

12
13 74. Storm water management: The practice of using detention measure to reduce the impact
14 of minor storms which cause accelerated erosion of stream channels and drainage ways (not
15 to be confused with control of flood flows).

16
17 75. Storm water runoff: Rain that is not absorbed when it comes in contact with the soil and
18 thus runs down hill into waters of Guam. This runoff may carry soil with it.

19
20 76. Strip planting: The planting of strips of wet soil tolerant, high erosion resistant vegetation
21 in the critical area near the waterline of a major waterway, and the planting of conventional
22 robust rooted grasses and legumes above the critical zone.

23
24 77. Subdivision: The division, re-division or change of lot lines of a lot, tract, or parcel of
25 land for the purpose of leasing, transferring ownership, or development, either immediately
26 or in the future.

27
28 78. Tacking: A method of securing mulches by the application of an asphalt or chemical
29 binder which binds the individual fibers together to form a resistant blanket.

- 1 79. Temporary stabilization: Protecting soil from excessive erosion for a short period of
2 time. Usually, temporary stabilization is designed to last for less than one year.
3
- 4 80. Terrace: A relatively level step constructed in the face of a grade slope surface for
5 drainage and maintenance purposes.
6
- 7 81. Territory: The ~~Territory of~~ Island of Guam, United States of America.
8
- 9 82. Tetrahedron: Solid figure with four (4) triangular surfaces.
10
- 11 83. Uniform Building Code (UBC): The most recent edition of minimum standards to
12 safeguard life or limb, health, property and public welfare by regulating and controlling the
13 design, construction, quality of materials, use and occupancy, location, and maintenance of all
14 buildings and structures within Guam, as published by the International Conference of
15 Building Officials.
16
- 17 84. Waters of ~~the Territory~~ Guam: All shore waters ~~surrounding Guam~~, streams, lakes, wells,
18 springs, irrigation systems, wetlands, sinkholes, marshes, swamps, watercourses, waterways,
19 drainage systems and other bodies of water, surface and underground, natural or artificial,
20 publicly or privately owned, on or surrounding Guam.
21
- 22 85. Watershed: ~~The area contained within a divide above a specified point on a stream. For~~
23 any river, stream or other water body, the drainage area that contributes water to that water
24 body.
25
- 26 86. Watershed divide: The line that follows the ridges or summits forming the exterior
27 boundary of a drainage basin and separates one drainage basin from another.
28
- 29 87. Waterway: A natural course or constructed channel for the flow of water.

1 **Section 10103. Permit Issuance and Denials.**

2

3 **A. Permits Required.**

4

5 1. Unless exempted, no person shall commence or perform any grading, clearing, grubbing,
6 embankment, filling, excavation or other earth-moving activity without a grading permit.

7

8 2. Unless exempted, no person shall commence or perform any stockpiling without a
9 stockpiling permit.

10

11 **B. Permit Application Process.**

12 An applicant shall obtain the required application from the Building Permit Section,
13 Department of Public Works located at the One-Stop Permit Center or other approved
14 location, and shall complete and submit the application to the One-Stop Permit Center or other
15 GEPA approved location for review and approval of all concerned agencies, including the
16 Guam Environmental Protection Agency.

17

18 **C. Permit Application Contents**

19 1. A description of the proposed activity, including its purpose, proof of land ownership (title,
20 deed or authorized letter) and other pertinent information as may be required by the
21 Administrator.

22

23 2. A vicinity map or plan of the site indicating:

24

25 a. Site information. The location, including names and locations of streets, roadways,
26 and right-of-ways; property line locations, dimensions and azimuths, easements and
27 setbacks of property; the location of any utility and utility lines, buildings, structures and
28 improvements on or within 100 feet of the site; prominent visible rock out-cropping;
29 elevations, dimensions, location, extent and slopes of all proposed earth moving

1 activities shown by contours and/or other means; the area in square feet of the land to
2 be affected; and the quantities of excavation and fill involved.

3
4 b. Water course information. Locations, dimensions and flow of springs, rivers,
5 wetlands, wells and streams; natural drainage depressions, basins and sinks; flood plains
6 on the project site and downstream locations which will undergo changes due to the
7 proposed earth-moving operations; and existing and proposed water quality monitoring
8 stations located on or nearby the project site.

9
10 c. Vegetation information. Location and type of existing trees with a diameter of 12
11 inches and greater.

12
13 3. Required maps will be prepared and signed by a licensed land surveyor. Grading plans and
14 specifications will be prepared and signed by an engineer. Required maps should conform to
15 the latest Zoning Code of Guam's Land Use Plan and subdivision law. The scale shall be no
16 smaller than 1 inch = 50 feet or 1 inch = 5 meters.

17
18 4. An application for a stockpiling permit shall include: a plot plan showing the property
19 boundaries; easements, setbacks, and location of the proposed stockpiles; quantities; height
20 of stockpile; the kind/source of the material to be stockpiled; expected life of the stockpile, and
21 any other information required by the Administrator to control dust, drainage or sedimentation
22 problems. Where stockpiling is for the purpose of surcharging to stabilize or consolidate an
23 area, the permittee shall submit an engineer's soil report which shall include data on the effect
24 such surcharging will have on adjacent buildings or structures.

25
26 5. Required Plans

27
28 a. Erosion and Sediment Control Plan. as a prerequisite of all permits issued by the
29 Building officials, Department of Public Works; This plan is required for clearing,

1 grading, grubbing, embankment or filling, excavation or other earth-moving operations
2 not otherwise exempted by these regulations.

3
4 b. Storm water Runoff Drainage System Plan. This plan, in addition to the Erosion
5 and Sediment Control Plan, is required when the area to be graded is more than 5,000
6 square feet or a proposed cut or fill is greater than five feet in height.

7
8 c. Both the Erosion and Sediment Control and Storm water Runoff Drainage Systems
9 Plans shall:

10
11 i. be prepared and signed by an engineer in accordance with these regulations,
12 and the best management practices (BMP) guidance manual or other
13 application of BMPs; and.

14
15 ii. show the method to be used for controlling erosion and disposal of storm
16 water runoff prior to and post construction, including drainage devices such as
17 terraces, berms, ditches culverts, subsurface drains, sedimentation basins, and
18 the estimated runoff quantities of the areas served by each drain and drainage
19 structure.

20
21 d. Environmental Protection Plan will be required depending on the intensity and
22 scope of the project. This plan will describe the methods and equipment to be
23 used on site; expected or anticipated environmental problems during and after
24 construction; and the methods and equipment that may be used to avoid,
25 mitigate or control potential adverse effects on the environment.

26
27 6. When a proposed cut or fill is greater than five (5) feet or the proposed grading is on land
28 with slopes exceeding 5 percent, or when any fill is to be placed in a gully, or when the fill
29 material will be a highly plastic clay, the applicant shall submit to the Administrator, for the

1 Agency's evaluation and review. an engineer's soils report signed by an engineer and
2 approved by the owner. The soils report shall include data regarding the nature of the
3 distribution and engineering characteristics of existing soils, and the subsurface conditions at
4 the site. It shall recommend the limits for the proposed grading, the fill material to be used,
5 the geotechnical calculations for the cut or fill area, and the manner of placing, including the
6 heights and slopes of cut and fill sections.

7
8 7. When an activity or project is located within an environmentally sensitive area (e.g.: areas
9 that affect seashore, rivers and streams, wetlands, critical habitats, and aquifers), an
10 Environmental Impact Assessment (EIA) must be submitted, unless the Administrator
11 determines in writing that the activity is exempted from EIA requirements.

12
13 8. If wetlands exist on the property to be cleared and grubbed, graded or used for stockpiling
14 of earth materials, the (wetlands) must be identified with both field markings and by mapping
15 on the site and/or grading plan(s). Wetlands cannot be cleared, grubbed, graded or otherwise
16 be used as a stockpiling site without first obtaining both a valid Guam Wetland Development
17 Permit and a U.S. Army Corps of Engineers Section 404 fill or discharge permit.

18
19 9. The Administrator may require that wetlands, on the property to be cleared, grubbed or used
20 for stockpiling of earth materials, be officially delineated, in whole or in part, when conditions
21 such as slope, soil stability, proximity of work or other performance related conditions warrant
22 an official delineation. Individuals required to delineate wetlands in accordance with this
23 provision shall apply the mapping requirements of the Guam Environmental Protection
24 Agency Wetlands Mapping Policy, revised November 9, 1995.

25
26 10. Other permits, plans or approvals associated with and issued for the proposed project shall
27 be submitted with the permit application. Activities described in the permit application shall
28 be consistent with these permits, plans or approvals. Such documents include, but are not
29 limited to:

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a. Any required conditional use: seashore clearance, wetland, Section 401 WQC, Section 404 permits (CWA), and planned development approvals, height variances, plan review use approvals, or re-zoning under the Guam Zoning Regulations;

b. Sub-division approvals, when an application includes the grading of a development that is to be subdivided, pursuant to the Guam Subdivision Rules and Regulations;

c. Conditional use approvals from Guam Land Use Commission, when the area to be graded or excavated will be used as quarry, and extracted materials used to fill a different area or sold as a fill material by the owner.

D. Permit Conditions

1. ~~Additionally,~~ No permit for earth-moving operations will be issued that will cause erosion and sediment loads or cause pollution to the waters of ~~the Territory~~ Guam, as defined by the latest Guam Water Pollution Control Act and the ~~current~~ Water Quality Standards, unless an Environmental Protection Plan and an Erosion and Sediment Control Plan ~~have~~ has been approved by the Agency.

2. The Administrator may attach such conditions as may be reasonably necessary to ensure that any grading work is for a use or structure permitted in accordance with zoning requirements, and to prevent creation of a nuisance or hazard to public or private property, health or welfare. Such conditions may include but are not limited to:

a. improvements of any existing grading to bring it up to the standards of these regulations;

b. requirements for fencing of excavation or fill to minimize hazards;

1 c. requirements for retaining walls or other earth retention structures to prevent loss
2 of, support to, erosion of, and interference with natural drainage patterns on adjacent
3 properties;

4
5 d. requirements involving clean-up of an area; and

6
7 e. limitations on the months, days and hours of permitted work.
8

9 3. The issuance of a grading permit shall constitute an authorization to do only that work
10 which is described in the permit and in the plans and specifications approved by the
11 Administrator.

12
13 4. Permits issued under these regulations shall not relieve the permittee of the responsibility
14 for securing permits or approvals for work to be done which is regulated by any federal laws
15 or other laws of Guam, or by department, or division of the governing agencies of the
16 Government of Guam.

17
18 5. Permits issued under these regulations shall be consistent with other permits, plans or
19 approvals associated with the proposed project.

20
21 6. Where any operations are delayed for any reason, a revised work schedule shall be
22 submitted to the Administrator which describes any required modifications to the temporary
23 storm water drainage system and to the Erosion and Sediment Control Plan, and other
24 information the Administrator may require.

25
26 7. A copy of the permit, plans and specifications for grading, clearing & grubbing, or
27 stockpiling shall be maintained at the job-site during the progress of the work.
28
29

1 E. Permit Denials.

2 The Administrator shall deny a clearing and grubbing, grading or stockpiling permit if there
3 is reasonable cause for concern that the work as proposed by the applicant may present a risk
4 or endangerment to public health or the environment. Factors to be considered in determining
5 probability of dangerous conditions include, but are not limited to:

6

7 1. possible saturation of ground by rain;

8

9 2. dangerous geological conditions or flood hazards;

10

11 3. undesirable surface water runoff, and

12

13 4. subsurface conditions such as the stratification and faulting of rock, nature and type of soil
14 or rock.

15

16 **Section 10104. Erosion and Sediment Control Plans**

17

18 **A. General Requirements**

19 1. All earth-moving activities on Guam shall be conducted in such a way as to prevent
20 accelerated erosion and the resulting sedimentation. To accomplish this all persons engaged
21 in earth-moving activities shall design, implement, and maintain erosion and sediment control
22 measures which effectively prevent accelerated erosion and sedimentation. These erosion and
23 sediment measures must be as set forth in Erosion and Sediment Control Plans submitted,
24 reviewed and approved by GEPA.

25

26 2. All clearing, grading, embankment or filling, excavating and other earth-moving operations
27 shall proceed only in accordance with an Erosion and Sediment Control Plan, prepared in
28 accordance with the requirements set forth in these regulations, and which is duly approved
29 by the Agency.

1 ~~3. Such Erosion and Sediment Control Plans shall be prepared in accordance with the~~
2 ~~requirements set forth in these regulations.~~

3
4 3. An approved Erosion and Sediment Control Plan does not abrogate a permittee's
5 responsibility to comply with all other applicable ~~Territorial~~ local and federal laws and
6 regulations.

7
8 ~~(3) An Erosion Control Plan shall be a prerequisite of all permits issued by the Building~~
9 ~~officials, Department of Public Works, for clearing, grading, filling, excavating or other~~
10 ~~earth-moving operations not otherwise exempted by these regulations. Additionally, no~~
11 ~~permit shall be issued if earth-moving operations will cause erosion and sediment loads~~
12 ~~or cause pollution to the waters of the Territory, as define by the Guam Water Pollution~~
13 ~~Act and the Water Quality Standards, unless and Environmental Protection Plan has been~~
14 ~~approved by the Agency.~~

15
16 B. Agency approval of Erosion and Sediment Control Plans

17 1. ~~Two~~ Four copies of a proposed Erosion and Sediment Control Plan shall be submitted to
18 the Agency with ~~Such Plan copies shall accompany the permit application~~ for earth-moving
19 operations.

20
21 2. The Agency shall have ~~ten~~ thirty (30) working days to approve or disapprove of such plan.

22
23 C. Compliance

24
25 1. All clearing, grading, embankment or filling, excavating and other earth-moving
26 operations, ~~except as provided under Section H 10109 (3)(b) below, or as those~~ otherwise
27 exempted from these regulations by the Administrator, must proceed in accordance with a duly
28 approved Erosion and Sediment Control Plan.

29

1 2. Earth-moving operations in progress, other than quarrying, shall comply with these
2 regulations within ~~7-15~~ calendar days of the effective date of these regulations. Quarrying
3 operations shall comply with these regulations within 30 calendar days of the effective date
4 of these regulations.

5
6 **Section 10105. Erosion and Sediment Control Plans and Measures.**

7
8 **A. General policies for Erosion and Sediment Control**

9 **(a) Planning policies for control of Erosion and Sediment Control Plan**

10 1. All earth-moving operations ~~in the Territory on Guam~~ shall be conducted in a manner that
11 prevents accelerated land erosion, transportation of sediment to and along highways, ~~or~~
12 siltation ~~or of~~ rivers, estuaries and marine waters. ~~In conjunction with the project construction~~
13 ~~schedule, the Plan shall indicate the construction sequence of erosion and sedimentation~~
14 ~~control measures.~~

15
16 2. The area affected by earth-moving operations shall be kept to a minimum by either
17 selective clearing, increment phases of development or other effective means. The Erosion
18 and Sediment Control Plan must contain measures that ensure that each phase of any proposed
19 large development affects less than 20 acres.

20
21 3. All earth-moving operations shall be scheduled during periods of expected low rainfall.

22
23 4. Any earth moving operations authorized under these regulations shall be performed so as
24 not to violate applicable provisions of the latest Guam Water Quality Standards.

25
26 5. No person shall perform any earth moving operation so as to cause falling rocks, soil or
27 debris in any form to fall, slide or flow onto adjoining properties or waters of Guam.

28
29 6. All work areas shall be maintained so as to minimize dust which may cause a nuisance or

1 hazard to others, and in conformance with the Guam Air Pollution Control Standards and
2 regulations.

3
4 7. Where construction equipment will make frequent crossings of a natural drainage course,
5 plans shall provide for temporary culverts or bridge structures to be installed. The required
6 clearances from concerned agencies shall be obtained before any construction of temporary
7 crossing access begins.

8
9 8. The erosion and sedimentation control measures set forth in this section are required, unless
10 the Erosion and Sediment Control Plan shows that the alteration of these measures and
11 facilities or inclusion of other measures and facilities will better prevent accelerated erosion
12 and sedimentation.

13
14 B. Required contents of Erosion and Sediment Control Plans

15 1. Description of the Project.

16 The plan shall include a brief detailed narrative description, with photographs and construction
17 drawings, of the proposed project. ~~Sketches, photographs and construction drawings may be~~
18 ~~used to supplement this description.~~

19
20 2. Project Site Plan.

21
22 a. The necessary information is that which is required in Section 10103.C. Permit
23 Application Contents. A project site plan shall include the data listing in this subsection
24 Plan sheet size shall not be smaller than 18 inches x 24 inches and not larger than 30
25 inches x 42 inches. Plan sheet sizes shall not vary .

26
27 ~~(a) Project site vicinity map and north arrow.~~

28
29 ~~(b) Existing land uses and structures.~~

1 ~~(c) Existing vegetation,~~

2
3 ~~(d) Existing topography at contour intervals of not greater than ten feet~~

4
5 ~~(e) Grading plan at contour intervals of not greater than five feet which extend beyond~~
6 ~~the project site limits so as to adequately depict the off-site drainage pattern for purposes of~~
7 ~~assessing any erosion or its deposition onto other properties.~~

8
9 b. Soil description including: soil classification by USDA Natural Resources Soil
10 Conservation Service "Soil Taxonomy Classification System"; soil erodibility factor;
11 soil permeability and percolation rates; type and extent of out-croppings; depth of
12 soil; capability for establishing vegetation; and coefficient of runoff.

13
14 c. Evaluation of subsurface information. Subsurface investigations shall consist of
15 drilling, excavations, or observations of naturally exposed soil and bedrock exposures
16 at sufficient intervals and depths to indicate the type of material or condition to be
17 encountered at final grading. The person or firm making the investigation shall submit
18 a written report of their findings and recommendations. ~~as described in part (h) below~~
19 This information is required where the stability will be lessened by proposed grading
20 or filling, where any other weaknesses are found, or where any of the following
21 conditions are discovered or proposed:

22
23 i. At locations where a fill slope is to be placed above or a cut slope;

24
25 ii. At proposed cuts exceeding 15 feet in height unless in competent rock as
26 determined by an engineer;

27
28 iii. At locations of proposed fills exceeding 15 feet in height.

1 iv. Where sides of hill fills are to be placed on existing slopes steeper than 15
2 percent:

3
4 v. Wherever groundwater from either the grading project or adjoining
5 properties is likely to reduce stability;

6
7 vi. At zones of trapped water or high water table; or.

8
9 vii. Where the topography is indicative of landslides, as determined by an
10 engineer.

11
12 d. ~~Site Assessment. of the Site. The assessment of the site shall determine the need~~
13 ~~for an erosion and sediment control plan by considering~~ Consider the detrimental
14 effects of construction of the site as it pertains to: erosion and loss of sediments; slope
15 stability; water quality; plant communities; wildlife and aquatic life; and condition of
16 marine waters and reef flats which will receive storm water runoff, either directly or
17 indirectly, from the project site.

18
19 3. Grading Plan.

20 It is the purpose of this paragraph to ensure that minimum grading is performed and that
21 natural contours and topography will be retained wherever feasible.

22
23 a. Grading shall be designed and implemented so as to blend in with the surrounding
24 area.

25
26 b. All grading plans and specifications shall show, using contours, cross sections, spot
27 elevations or other means, the condition of the land before and after grading.

1 c. The grading plan shall provide information regarding the location and source of
2 imported fill material, and the location for disposal of excess excavation material.

3
4 d. Where a grading activity is to occur in increments or phases, the plan shall also
5 include the plan for future site development and the proposed grading of future
6 increments.

7
8 4. Construction Schedule.

9
10 a. Construction increments shall be described in detail and identified on the project
11 plan.

12
13 b. The schedule will indicate completion dates for each construction increment and
14 the construction sequence of erosion and sediment control measures, shall be
15 indicated. Each increment phase of work shall have an approved Environmental
16 Protection Plan and Soil Erosion and Sedimentation Control Plan from the Agency.

17
18 c. The Agency shall check the adequacy of the schedule with respect to short term and
19 long term erosion anticipated on the project site. The construction schedule shall be
20 checked to ensure prompt establishment of protective vegetation with full recognition
21 of climatic and other factors that influence its establishment.

22
23 4. Stormwater Drainage System and Control of Site Water Runoff.

24 a. The proposed temporary and permanent, natural and man-made, storm water
25 drainage systems shall be depicted in detail in the drawing plans, including, but not
26 limited to, dimensions, alignments and elevations of all structures as well as the
27 anticipated volume and velocity of the storm water. Design calculations for the
28 drainage systems and siltation basins, best management practices, and other pertinent
29 structures, shall be submitted. The following shall also be provided:

1 i. The runoff to be expected during and after the proposed development:

2
3 ii. The size of drainage areas above cuts and slopes:

4
5 iii. Estimate soil loss volume:

6
7 iv. The methods for trapping sediments, reducing erosion of drainage ways,
8 and for controlling the collection and discharge of stormwater during and after
9 construction.

10
11 v. The method and schedule of construction of waterway crossings. Sediment
12 control structures for natural waterways shall be scheduled for installation prior
13 to any earth-moving operations.

14
15 b. Adequate provisions shall be made to prevent surface waters from damaging the cut
16 face of an excavation or the sloped surfaces of a fill. Positive drainage shall be
17 provided to prevent the accumulation or retention of surface water in pits, gullies,
18 holes or similar depressions. All drainage facilities shall be designed to carry surface
19 water runoff to a storm drain that will discharge to a catchment facility within the
20 project site. The Administrator may require such drainage structures and pipes to be
21 constructed or installed, which in his opinion, are necessary to prevent erosion damage
22 and to adequately carry off surface waters. The flow of any existing and known natural
23 underground drainage shall not be impeded or changed so as to cause damage to
24 adjoining property.

25
26 ~~c. Storm water runoff from areas disturbed by earth-moving operations shall be~~
27 ~~collected and diverted to facilities for removal of sediment prior to discharge to any~~
28 ~~surface or marine waters of the Territory.~~

1 c. During construction, all storm sewer inlets shall be protected with silt traps.

2
3 d. If a project to be developed is covered under the Federal Stormwater Regulations
4 (40 CFR Parts 122 & 123), a notice of intent to discharge stormwater to surface and
5 marine waters of Guam must be submitted to US Environmental Protection Agency
6 and a copy furnished GEPA. An NPDES permit which authorizes the discharge must
7 also be secured.

8
9 **(5) ~~Erosion and Sediment Control Measures.~~**

10 ~~(a) The erosion and sediment control plan shall specify the types, dimensions and~~
11 ~~locations of all temporary and permanent structures, measures (including vegetation), and~~
12 ~~equipment proposed for controlling erosion and sedimentation. Such Plan shall encompass~~
13 ~~the disposal of excavated materials and cleared vegetation.~~

14 ~~(b) In conjunction with the project construction schedule, the Plan shall indicate the~~
15 ~~construction sequence of erosion and sedimentation control measures:~~

16 ~~© Stabilization of all affected streams, waterways and drainage ways;~~

17
18 e. Structural measures such as berms, dikes, traps, basins, shall be installed prior to
19 any other grading, clearing, or disturbance of the existing surface of the site..

20
21 **f. Diversion Terraces**

22 i. Diversion terraces shall be constructed up-grade of a project area to convey
23 runoff around the project area. For temporary diversions, the channel shall
24 have capacity to convey 1.6 cubic feet per second per acre of land tributary to
25 it. For permanent diversions, the channel shall have capacity to convey 2.75
26 cubic feet per second per acre of land tributary to it.

27
28 ii. Diversion terraces shall be grassed or lined with erosion resistant material
29 to prevent accelerated erosion within the channel.

1 iii. Outlet structures shall be designed to maintain a discharge velocity of less
2 than 2.0 feet per second and all areas affected by the construction activity shall
3 be stabilized before the outlet structures shall be used.

4
5 g. Interceptor Channels.

6 i. Interceptor channels may be used within the project area to reduce the
7 velocity of the flow and thus prevent accelerated erosion.

8
9 ii. Water collected by interceptor channels shall be conveyed to sedimentation
10 basins or to vegetated areas but not directly to streams.

11
12 iii. Outlets to vegetated areas shall be designed to maintain an outlet velocity
13 of less than 2.0 feet per second. Outlet structures shall be screened to lower the
14 amount of suspended solids in the discharge water.

15
16 h. Channels of Conveyance.

17 All channels used to convey water through a project area shall be designed to
18 have a velocity of less than 1.5 feet per second. Where this is not possible, the
19 channel shall be grassed or lined with erosion resistant material.

20
21 i. Sedimentation Basins.

22 i. The basin shall be cleaned when the storage capacity of the basin is reduced
23 to 5,000 cubic feet per acre of project area tributary to the basin.

24
25 ii. Water from a sedimentation basin shall not be discharged to a natural
26 waterway. Designs of sediment basins must provide for enough storage to give
27 time for runoff water to be leached into the ground.

28
29 iii. Outlets of sedimentation basins shall be screened and designed in a manner

1 which does not discourage regular maintenance.

2
3 iv. Sedimentation basins shall be structurally sound and properly secured
4 to protect them from unauthorized acts of third party activities.

5
6 5. Cut and fill measures

7 a. The conditions of the following subsections may be modified by the Administrator
8 based on a supportive engineer's soils report, and receipt of approvals from the owner
9 and concerned agencies:

10
11 i. Height. Where a cut or fill is greater than 15 feet in height, terraces, or
12 benches shall be constructed at vertical intervals of 15 feet except where only
13 one bench is required, the single bench shall be constructed at the midpoint.
14 The minimum width of such terraces or benches shall be at least 18 feet and
15 provided with drainage provisions to control erosion on the slope and face and
16 bench surface.

17
18 ii. Cut Slopes. Under the following conditions, no cut may be steeper in slope
19 than the ratio of its horizontal to its vertical distance as shown below:

20 (a) 2 horizontal to 1 vertical in unweathered rock or mudrock;

21
22 (b) 2 horizontal to 1 vertical in decomposed rock; or

23
24 (c) 2 horizontal to 1 vertical in soils of low plasticity for cuts of any
25 height in highly plastic soils. The engineer's soils report shall include
26 the recommended slope design, and design calculations necessary to
27 demonstrate slope stability.

1 iii. Fill slopes shall not be steeper than the ratio 3 horizontal to 1 vertical
2 except that fill using highly plastic clays shall have slopes specifically
3 recommended in the engineer's soils report signed by a professional civil
4 engineer, and approved by the owner. The engineer's soils report shall include
5 the recommended slope design, and design calculations necessary to
6 demonstrate slope stability.

7
8 b. Fill material shall be selected to meet the requirements and conditions of the
9 particular fill for which it is to be used. The fill material shall not contain vegetation
10 or organic matter. Where rocks, concrete, or similar materials of greater than 8 inches
11 in diameter are incorporated into the fill, they shall be placed in accordance with the
12 recommendation of the professional civil engineer.

13
14 c. Before placing fill or stockpiling, the natural ground surface shall be prepared by
15 removing the vegetation and, shall be notched by a series of benches and/or subsurface
16 drains installed.

17
18 d. No fill shall be placed over any waters of Guam (e.g.: spring, marsh, wetlands),
19 refuse dumps, or soft, soggy or springy foundations.

20
21 e. Fill materials shall be spread and compacted in a series of eight (8) inch to ten (10)
22 inch layers, unless otherwise recommended by the professional civil engineer. For
23 slopes, the fill shall be compacted to ninety five (95) percent maximum density as
24 determined by the most recent ASTM Soil Compaction Test D1557. The engineer's
25 soils report shall include the recommended slope design, and design calculations
26 necessary to demonstrate slope stability.

27
28 f. Distance from property line. The following requirements may be modified by the
29 Administrator when cuts or fills are supported by retaining walls or when the permittee

1 submits an engineer's soils report stating that the soil conditions will permit a lesser
2 horizontal distance without causing damage or danger to the adjoining property. The
3 engineer's soils report shall include the recommended slope design, and design
4 calculations necessary to demonstrate slope stability.

5
6 The horizontal distance from the top of a cut slope or the bottom of a fill
7 slope to the adjoining property line shall not be less than as follows:

8	9	10
	<u>Heights of cut or fill</u>	<u>Distance from property line (in feet)</u>
11	<u>Zero feet to 4 feet</u>	<u>4</u>
12	<u>More than 4 feet to 10 feet</u>	<u>6</u>
13	<u>More than 10 feet to 15 feet</u>	<u>8</u>
14	<u>More than 15 feet</u>	<u>10</u>

15 **6. Maintenance Procedures.**

16 a. A maintenance program for the erosion and sedimentation control structures and
17 facilities shall be established. ~~Such~~ The program shall include periodic, but not be
18 limited to, a schedule for inspecting the facilities and for removing and disposing
19 inspection schedule of the facilities, schedule of removal and disposal of sediment
20 materials from the control structures, or project area, and specific assignment duties
21 of the designated maintenance personnel.

22
23 b. If the original owner has sold the property, the subsequent owner shall be
24 responsible for maintaining the permanent measures that have been installed on the
25 property.

26
27 **7. Disposal of Spoil Materials.**

28 The information concerning the disposal of spoil materials shall include the following: type
29 of spoil material; location of disposal area; method for processing and disposing of spoil

1 materials; procedures for preventing soil loss to adjacent watercourses; and, if intending to
2 burn spoil materials, burning procedures for combustible spoil material. Burning requires a
3 permit from the Guam Fire Department;

4
5 **8. Stockpiles.**

6 The following information shall be provided: source of stockpile material; location, slope, and
7 height of stockpile; duration that the material is to be stockpiled; provisions to prevent
8 erosion and sediment loss from rain and wind action; plan for removing stockpiles at project
9 completion.

10
11 **9. Stabilization of Affected Areas**

12 a. Stabilization of slopes, channels, ditches, berms, diversions, silt dams, or any
13 disturbed areas shall begin as soon as possible and no later than 30 calendar days after
14 the final grade or final earth-moving activities has been completed.

15
16 b. Electric power, and telephone trenches are to be stabilized as soon as possible and
17 no later than 30 days after backfill.

18
19 c. Stabilization of stream banks shall be scheduled during periods of expected low
20 rainfall.

21
22 ~~b. Temporary stabilization measures shall be defined for implementation in the~~
23 ~~event that delays occur during earth-moving operations and until such time that~~
24 ~~permanent stabilization measures are in place.~~

25
26 d. Where it is not possible to permanently stabilize a disturbed area immediately after
27 the final earth-moving has been completed or where the activity ceases for more than
28 30 calendar days, interim or temporary stabilization measures shall promptly be
29 implemented and enforced.

1 e. Any disturbed area not paved, sodded or built shall be seeded and mulched with
2 vegetative cover appropriate to the soil type, as recommended by an engineer, or the
3 condition of the area based on soil test analysis done by a laboratory. This condition
4 does not prohibit the use of matting, gabion, armor coating on erodible surfaces or
5 other type of vegetative cover that will minimize erosion.

6
7 ~~g. All facilities which are authorized by an Erosion and Sediment Control Plan and~~
8 ~~which are necessary to protect areas from erosion during the stabilization period shall~~
9 ~~be properly maintained until such stabilization is complete.~~

10
11 f. All structural sediment control measures are to remain in place until permission for
12 their removal has been obtained from the Agency.

13
14 ~~4. No graded area shall remain in an unstabilized condition for longer than or longer~~
15 ~~than authorized by its approved Erosion Control Plan.~~

16
17 ~~5. In the event that earth-moving operations are discontinued or delayed, graded~~
18 ~~areas shall receive interim, or temporary cover~~

19
20 ~~6. All areas disturbed by earth-moving operations, including slopes, channels, ditches,~~
21 ~~banks, must be stabilized as soon as possible after the final grade has been established~~

22
23 10. Protection and Removal of Native Vegetation.

24 a. In order to protect native vegetation from construction impacts, the following
25 information shall be provided: location and description of native vegetation whose root
26 zone will be affected by compaction, fills, trenches, and changes in the groundwater
27 table; measures which will prevent conditions damaging to vegetation; and criteria
28 used to determine removal;

1 b. Whenever feasible, natural vegetation should be retained. If their removal is
2 necessitated, they shall not be stored or deposited along banks of streams, rivers or
3 natural water courses, after being uprooted, or displaced from the ground by
4 excavation, clearing or grubbing. Removed vegetation shall be disposed of at a
5 disposal site approved by the Administrator, and removed from the site within a
6 reasonable time, not to exceed one (1) month from date of removal.

7
8 11. Establishment of Vegetation

9 a. Where the establishment of vegetation is required on slopes of cut and fill, graded
10 areas, and watercourses, etc., the following information shall be provided :

11
12 i. Location and areas to be vegetated:

13
14 ii. An indication of whether vegetation is to be temporary or permanent:

15
16 iii. Type and quantity of seeds or plants:

17
18 iv. Ground conditions, including: soil surface condition, pH, permeability, size
19 distribution, slope angle, slope length, and aspect, nutrients:

20
21 v. Type and quantity of mulch:

22
23 vi. Type and quantity of fertilizer:

24
25 vii. Method and schedule of seeding, mulching, planting, and fertilizing:

26
27 viii. Irrigation schedule.

1 b. The plan shall provide for the revisiting of the location every three (3) months to
2 verify that vegetation has been successfully established. If not successful the site must
3 be revegetated until the area ~~returns to its pre-existing condition substantially.~~ is
4 successfully revegetated.

5
6 12. Certification. The Plan shall be stamped and signed by a professional civil and/or
7 structural ~~environmental~~ engineer ~~holding current Guam registration in the Territory.~~
8 currently registered on Guam.

9
10 **Section 10106. Special Requirements.**

11 **A. Protection of adjoining properties.**

12 Any person performing or causing to be performed any excavation or fill shall, at his own
13 expense, provide the necessary means to prevent the movement of earth to the adjoining
14 properties, and to maintain the existing natural grade of adjoining properties.

15
16 **B. Protection of public utilities.**

17 Any person performing or causing to be performed any excavation or fill shall be responsible
18 for the maintenance or restoration of street pavements, sidewalks and curbs, and improvements
19 of public utilities which may be affected. Such maintenance shall be in accordance with the
20 requirements of the Department of Public Works, Government of Guam agencies and affected
21 public utilities. At cuts fronting any street, a suitable and adequate barrier shall be installed
22 to provide protection to the public.

23
24 **C. Removal of silt or other debris.**

25 Any person depositing or causing to be deposited, any silt or debris in ditches, water courses,
26 drainage facilities, and public roadways, shall remove such silt or other debris. In case such
27 person shall fail, neglect or refuse to comply with the provisions of this section within 48
28 hours after written notice served upon him, either by mail or by personal service, the
29 Administrator may proceed to remove the silt and other debris or to take any other action he

1 deems appropriate. The costs incurred for any action taken by the Administrator shall be
2 payable by such person.

3
4 D. Safety precautions.

5 At any stage of the grading, grubbing, or stockpiling, if the Administrator finds that further
6 work as authorized by an existing permit is likely to create soil erosion problems or to
7 endanger life, limb or property, he may require safety precautions. These precautions may
8 include but are not limited to: flattening exposed slopes; constructing additional silting or
9 sediment basins, providing drainage facilities or benches; removing rocks, boulders, debris and
10 other dangerous objects which, if dislodged, are likely to cause injury or damage; or
11 constructing fences or other suitable protective barriers.

12
13 E. Creation of individual building sites.

14 Hillside lots shall be graded in such a manner that any parcels which may be created, including
15 all separate building sites which may be contained within said parcels, can be satisfactorily
16 graded and developed as individual building sites.

17
18 **Section 10107 Project Completion** ~~III. Minimum Conditions of an Erosion and Sediment~~
19 ~~Control Plan~~

20 A. Products to be submitted.

21 1. As-built / graded plan, prepared by an engineer or land surveyor, upon completion of an
22 earth-moving operation covering an area of greater than one (1) acre;

23
24 2. Soils report, when earth moving operations involve cuts or fills for which an engineer's
25 soils report is required. The report shall contain:

26
27 a. A description of materials used in the fill and its moisture content at the time of
28 compaction;

29 b. The procedures used in depositing and compacting the fill;

1 3. A description of the preparation of the original ground surface before making the fill, but
2 not limited to benching and subsurface drainage;

3
4 4. A plan or tabulation showing the general location and elevation of compaction tests
5 made in the fill together with a tabulation of relative compaction densities obtained at each
6 location, the location of sub-drains, and other pertinent features of the fill necessary for its
7 stability; and

8
9 5. Certification that the work was done in conformity with these regulations, the approved
10 plans and specifications, and the engineer's soils report.

11
12 B. Final inspection and approval.

13 The permittee or his agent shall notify the Administrator or his representative when the earth-
14 moving operation is ready for final inspection. Final approval shall not be given until all
15 approved work has been completed. Final approval shall be dependent on installation of all
16 drainage structures and their protective devices, establishment of a healthy vegetation growth
17 in conformance with the approved plans and specifications, and submittal of any required
18 reports.

19
20 (a) Planning policies for control of Erosion and Sediment Control Plan.

21
22 ~~1. All earth-moving operations in the Territory on Guam shall be conducted in a~~
23 ~~manner that prevents accelerated land erosion, transportation of sediment to and along~~
24 ~~highways, siltation or rivers, estuaries and marine waters.~~

25
26 ~~2. The area affected by earth-moving operations shall be kept to a minimum by either~~
27 ~~selective clearing, increment phases of development or other effective means.~~

28
29 ~~3. All earth-moving operations shall be scheduled during periods of expected low~~

1 ~~rainfall.~~

2

3 ~~4. No graded area shall remain in an unstabilized condition for longer than thirty 30~~
4 ~~calendar days or longer than authorized by its approved Erosion Control Plan.~~

5

6 ~~5. In the event that earth-moving operations are discontinued or delayed, graded~~
7 ~~areas shall receive interim, or temporary cover, which is acceptable to the Agency;~~

8

9 ~~6. All areas disturbed by earth-moving operations, including slopes, channels, ditches;~~
10 ~~banks, must be stabilized as soon as possible after the final grade has been established~~

11

12 ~~7. Storm water runoff from areas disturbed by earth-moving operations shall be~~
13 ~~collected and diverted to facilities for removal of sediment prior to discharge to any surface~~
14 ~~or marine waters of the Territory~~

15

16 ~~8. All facilities which are authorized by an Erosion Control Plan and which are necessary~~
17 ~~to protect areas from erosion during the stabilization period shall be properly maintained until~~
18 ~~such stabilization is complete.~~

19

20 **Section 10108. Permit Fees.**

21

22 A. Applicability.

23 All applicants (e.g.: private individuals, federal agencies, and Government of Guam agencies
24 or departments, including autonomous and semi-autonomous agencies) for earth-moving
25 operations permits, shall pay required permit fees.

26

27 B. Grading permits.

28 1. Before issuing a grading permit clearance, the Administrator shall collect site grading plan
29 review fees based on the volume of excavation or fill measured in place according to the

1 following schedules:

2
3 TABLE A - GRADING PLAN REVIEW FEES

4
5 50 cubic yards or less ----- No Fee

6
7 51 to 100 cubic yards ----- \$15.00

8
9 101 to 1,000 cubic yards ----- \$22.50

10
11 1,001 to 10,000 cubic yards -- ----- \$30.00

12
13 10,001 to 100,000 cubic yards ----- \$30.00 for the first 10,000 cubic yards,
14 plus \$15.00 for each additional 10,000 cubic yards or fraction thereof.

15
16 100,001 to 200,000 cubic yards ----- \$165.00 for the first 100,000 cubic
17 yards, plus \$9.00 for each additional 10,000 cubic yards or fraction thereof.

18
19 200,001 cubic yards or more ----- \$225.00 for the first 200,000 cubic
20 yards, \$4.50 for each additional 10,000 cubic yards or fraction thereof.

21
22 2. The fee for a grading permit authorizing additional work to that under a valid permit shall
23 be the difference between the fee paid for the original permit and the fee shown for the entire
24 project.

25
26
27 C. Fees for additional plan reviews.

28 Additional plan reviews required for any changes, additions or revisions to approved plans are
29 \$30.00 per hour, or the total hourly cost to the jurisdiction, whichever is the greatest. This cost

1 shall include those associated with supervision, overhead, equipment, hourly wages and fringe
2 benefits of the employees involved.

3
4 D. Clearing and grubbing permits.

5 Before issuing a clearing and grubbing permit clearance, the Administrator shall collect a
6 clearance fee of \$20.00 for clearing & grubbing areas greater than 15,000 square feet plus
7 \$2.00 per each additional 1,000 square feet or fraction thereof. No fee shall be charged for
8 clearing and grubbing less than 15,000 square feet.

9
10 E. Stockpiling permits.

11 Before issuing a stockpiling permit clearance, the Administrator shall collect a permit
12 clearance fee of \$7.50 for stockpiling in excess of the 100 cubic yards, plus \$1.50 for each
13 additional 100 cubic yards or fraction thereof.

14
15 F. Work occurring without a permit.

16 Where work for which a permit is required by these regulations has commenced or has been
17 accomplished without a permit, a permit shall be obtained, and two times the fees specified
18 above shall be assessed, provided that such work complies with or may be made to comply
19 with the requirements of these regulations. If the grading/clearing/ stockpiling/ grubbing work
20 accomplished or commenced cannot be made to comply with the provisions of these
21 regulations, the person or persons responsible for the initiation or accomplishment of such
22 grading work shall restore the land to its original condition and shall obtain a certificate of
23 completion thereof from the Administrator. Notwithstanding the above, the person or persons
24 responsible for such grading/clearing/ grubbing/stockpiling shall be deemed to have violated
25 the provisions of these regulations by performing such activity/ies without a permit.

26
27 G. Water Protection Fund.

28 All permit fees, monetary charges, fines, and penalties assessed, collected or received by
29 GEPA pursuant to this regulation and other regulations promulgated under the Water Pollution

1 Control Act, as well as contributions and assets made for the purpose of improving water
2 quality or preventing water pollution, shall be deposited into the Water Protection Fund. The
3 Water Protection Fund shall be established as separate and apart from any other funds of the
4 Government of Guam, and shall be administered by the Administrator. Independent records
5 and accounts shall be maintained in connection therewith. The funds shall be used for the
6 administration and implementation and enforcement of the Water Pollution Control Act and
7 regulations promulgated from said Act, for educational programs and grants for research and
8 development, advertisement promotions, and inspections of facilities to prevent or minimize
9 erosion that contributes to pollution of the waters.

10
11 **Section 10109. Permit Expiration.**

12 **A. Grading, clearing and grubbing and stockpiling permits.**

13 All grading, clearing and grubbing or stockpiling permits shall expire and become null and
14 void under the following circumstances:

15
16 1. If permitted work is not started withing 180 calendar days after the date of issuance of the
17 permit; or

18
19 2. If work is suspended or abandoned any time after the work is commenced for a minimum
20 period of 60 days; or

21
22 3. If work is continued without interruption for one year, beginning with the date of issuance
23 of the permit, or is completed within the time frame provided in the approved permit
24 application, whichever comes first.

25
26
27 **B. Stockpiling permits.**

28 Every stockpiling permit shall expire and become null and void one year after the date of
29 issuance. Prior to the expiration of the stockpile permit, all stockpiled material temporarily

1 stored on the premises shall be removed from the premises or used on the premises as fill
2 material under a grading permit for fill.

3
4 C. Permit expiration.

5 Once a permit has expired, the owner/applicant shall pay the required fees and obtain a new
6 permit pursuant to these regulations, before beginning new work. If the owner begins work
7 with obtaining a new permit, the owner shall pay the necessary penalty fees pursuant to these
8 regulations.

9
10 Section 10110. Stop Work Order.

11 A. Unacceptable conditions.

12 Whenever the Administrator determines that any permitted clearing & grubbing, grading, or
13 stockpiling is or may become unstable or dangerous, endangers property, adversely affects the
14 safety, use, or stability of a public way or drainage channel, or results in a violation of the
15 Guam Water Quality Standards, the owner of the property, or other person or agent in control
16 of the property, on receipt of notice in writing from the Administrator, shall abate the danger,
17 implement necessary corrective measures, and shall conform with the requirements of these
18 regulations. The Administrator, or his authorized representative, shall have the authority to
19 enter the property and investigate, and enforce the provisions of this section. A hearing will
20 be held as required under 10 GCA Section 47110.

21
22 B. Stop work order procedures.

23 If the Administrator determines that the work must stop due to unstable or dangerous
24 conditions, the Administrator shall issue a stop work order to the owner/contractor of the
25 property and transmit a copy of the order to the Department of Public Works Building Permit
26 Section. Both GEPA and the Department of Public Works shall jointly enforce the stop work
27 order.

28 C. Work occurring without a permit.

29 Notwithstanding the above, if an earth-moving operation is occurring without a valid permit

1 the Agency can order the operation to immediately cease and either require the violator to
2 obtain an after the fact permit, or if the operation cannot be permitted, to have the violator take
3 corrective measures to return the land to its previous condition.

4
5 **Section 10111. Suspension or revocation of Permit.**

6
7 **A. Criteria for suspending or revoking permits.**

8 The Administrator shall, in writing, suspend or revoke a permit issued under the provisions
9 of these regulations whenever: the permit has been issued on the basis of incorrect information
10 supplied by the permittee; existing site conditions are found not to be in accordance with the
11 terms and conditions of the permit; it is determined that the permittee has not complied with
12 a provision of any other applicable law, ordinance rule or regulation of the Guam; the clearing
13 and grubbing, grading or stockpiling discloses conditions that are objectionable or unsafe; or
14 an immediate danger exists in a downstream/adjacent area.

15
16 **B. Process for recommencing work.**

17 When a permit has been suspended the permittee may submit details and proposals for
18 compliance with the provisions of these regulations, and any other applicable laws, rules or
19 regulations of Guam. Upon approval of such plans and proposals by the Administrator, the
20 Administrator shall authorize the permittee, in writing, to proceed with the work.

21
22 **C. Non-compliance**

23 Non-compliance with the correction notice or stop work order issued for the construction of
24 the sediment and erosion control practices, and/or the construction of storm water management
25 facilities may result in the revocation of the issued permit.

26
27
28 **Section 10112. Inspections.**

1 A. Access to the site.

2 Each permit issued under these regulations shall be deemed to include the right of the
3 Administrator or his authorized representative to enter at reasonable time upon any property
4 to inspect the clearing and grubbing, grading, or stockpiling operations. Such inspections may
5 take place before, during and after any earth change activity for which a permit has been issued
6 to ensure that control measures are properly installed or performed and maintained at the
7 expense of the applicant.

8
9 **Section 10113. Enforcement.**

10
11 A. Pollution.

12 If the Agency determines that a person is conducting operations ~~in a~~ which ~~is~~ are causing or
13 is are likely to cause pollution, the Administrator may order the owner or operation to take
14 of corrective measures needed to prevent or cease the pollution.

15
16 B. Water pollution.

17 If the operation is causing or is likely to cause alteration of physical, chemical, or biological
18 properties to the waters of Guam, resulting from sediment, deposition presenting an imminent
19 and substantial danger to the public health, safety or welfare, or the health of animals, fish or
20 aquatic life, to a public water supply or to other reasonable uses of water, the Administrator
21 can issue an order requiring the cessation of relevant activities and implementation of
22 corrective measures. In emergency situation, any order issued by the Administrator shall
23 become final no later than 24 hours after the date of the notice and order served.

24
25 C. Voluntary compliance.

26 Nothing in these regulations shall prevent the Agency from making efforts to obtain voluntary
27 compliance through warning, conference or any other appropriate means.

28
29 D. Permit violations.

1 Whenever the Agency has reason to believe that a violation of any Section of these regulations
2 has occurred, it shall cause written notice to be served upon the alleged violator or violators.
3 The notice shall specify the provision of these regulations alleged to be violated, and the facts
4 alleged to constitute a violation thereof, and may include an order that necessary corrective
5 action be taken within a specified time. Any such order shall become final unless, no later
6 than fifteen (15) days that after the date of the notice and order served, the person or persons
7 named therein request in writing a hearing before the Agency. Upon such a request, the
8 Agency shall hold a hearing. In lieu of an order, the Agency shall require that the alleged
9 violator or violators appear before the Agency for a time and place specified in the notice and
10 answer the charges complained of, or the Agency may initiate action pursuant to Section
11 10116 of these regulations.

12
13 E. Corrective actions.

14 If, after a hearing is held pursuant to this Section, the Agency finds that a violation or
15 violations have occurred, it shall affirm or modify the order previously issued or issue an
16 appropriate order or orders for the prevention, abatement, or control of the erosion or
17 sedimentation involved or for the taking of such other corrective action as may be appropriate.
18 If, after hearing on an order contained in a notice, the Agency finds that no violation has
19 occurred or is occurring, it shall rescind the order. Any order issued as part of a notice or after
20 hearing may prescribe the date or dates by which the violation or violations shall cease and
21 may prescribe timetables for necessary action in preventing, abating, or controlling soil
22 erosion.

23
24 F. Appeals.

25 No later than ~~ten (10)~~ fifteen (15) days after the issuance of the final order of the Agency, an
26 appeal to the Superior Court of Guam may be made against any decision of the Agency by any
27 person who is or may be adversely affected thereby.

1 G. Corporate violations.

2 Whenever a corporation violates any provisions of these regulations, it shall be deemed that
3 the individual directors, officers, or agents of the corporation, acting in their capacity as
4 directors, officers or agents of such corporation, have authorized, ordered or done the acts
5 constituting the violations.

6
7 H. Emergency Procedures.

8 1. Any other provisions of law to the contrary notwithstanding, if the Administrator finds that
9 a generalized condition of pollution exists, and that it creates an emergency requiring
10 immediate action to protect the intended uses of the water as designated in the Standards of
11 Water Quality for Waters of Guam, or to protect human health or safety, the Administrator,
12 with the concurrence of the Governor, shall order persons causing or contributing to the
13 pollution to reduce or discontinue immediately the pollutants, and such order shall fix a place
14 and time, not later than twenty-four (24) hours thereafter, for a hearing to be held before the
15 Agency. Not more than twenty-four (24) hours after the commencement of such hearing, and
16 without adjournment thereof, the Agency shall affirm, modify or set aside the order of the
17 Administrator.

18
19 2. In the absence of a generalized condition of pollution of the type referred to in Subsection
20 (1), but if the Administrator finds that pollutants from the operation of one or more polluting
21 sources is causing imminent danger to the intended uses of the water as designated in the
22 Standards of Water Quality for Waters of Guam or is causing imminent danger to human
23 health or safety, he may order the person or persons responsible for the operation or operations
24 in question to reduce or discontinue pollutants immediately, without regard to the provision
25 of Subsection (a) of §47109, Chapter 47, 10 GCA of this Act. In such event, the requirements
26 for hearing and affirmance, modification or setting aside of orders set forth in Subsection (1)
27 of this Section apply.

1 **Section 10114. Penalties, Liability, and Severability Clause**

2
3 **A. Penalties.**

4 1. Administrative - Where work for which a permit is required by these regulations has been
5 commenced or has been accomplished without a permit, a permit shall be obtained and a
6 penalty fee paid equal to two (2) times the amount of the required fee to be assessed under
7 Section 10107 Permit fees of these regulations. The Administrator shall assess the required
8 clearance fee and penalty fee provided that the work complies or may be made to comply with
9 the provisions of these regulations. If the activity accomplished or commenced cannot be
10 made to comply with the provisions of these regulations, the person or persons responsible
11 for the initiation or accomplishment of such activity shall restore the land to its original
12 condition and shall obtain a certificate of completion from the Administrator. The person or
13 persons who performed such activity shall be deemed to have violated the provisions of these
14 regulations by performing an activity without a permit and may be subject to enforcement
15 action pursuant to this section.

16
17 2. Criminal - Any person who violates any provision of these regulations shall be guilty of
18 a misdemeanor and subject on account thereof to a fine of not to exceed One Thousand Dollars
19 (\$1,000.00). Each day of violation shall constitute a separate offense.

20
21 3. Civil - Action pursuant to Section 10116 (1)(b) of this Section shall not be a bar to
22 enforcement of these regulations, by injunction or other appropriate remedy and the Agency
23 shall have the power to institute and maintain in the name of Guam any and all such
24 enforcement proceedings..

25
26 4. Nothing in these regulations shall be construed to abridge, limit impair, create, enlarge or
27 otherwise affect substantively or procedurally the right of any person to damages or other relief
28 on or other appropriate proceedings therefor.