

I Mina'trentai Sais Na Lihelaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
165-36 (COR)	Therese M. Terlaje Sabina Flores Perez	AN ACT TO AMEND §10115(a)(2) OF CHAPTER 10, TITLE 22, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO REMOVING THE CAP ON CIVIL PENALTY FOR VIOLATIONS OF THE GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS.	7/30/21 11:16 a.m.						

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 165-36 (COR)

Introduced by:

Therese M. Terlaje *Tmt*
Sabina F. Perez *SFP*

AN ACT TO *AMEND* §10115(a)(2) OF CHAPTER 10, TITLE 22, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO REMOVING THE CAP ON CIVIL PENALTY FOR VIOLATIONS OF THE GUAM SOIL EROSION AND SEDIMENT CONTROL REGULATIONS.

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

2 **Section 1.** §10115(a)(2) of Chapter 10, Title 22, Guam Administrative
3 Rules and Regulations, is hereby *amended* to read:

4 “§ 10115. Penalties, Liability, and Severability Clause.

5 (a) Penalties.

6 (1) Field Citations. Any person violating the Water Pollution Control
7 Act or these regulations may be served by the officer or inspector with a
8 pollution citation.

9 (A) Water Pollution citation violations shall be settled by amount
10 of no less than One Hundred Fifty Dollars (\$150.00) per violation and
11 not more than Three Thousand Dollars (\$3,000.00) per violation.

12 (B) Cost to take corrective action and community service in lieu
13 of all or a portion of the fine may be accepted by the Board. The Agency

1 will establish a scale amount to assist in determining the penalty amount
2 for settlement.

3 (C) The Board must hold a public hearing to establish and notify
4 the public of the monetary citation fines under this subsection before
5 fines can be imposed.

6 (D) The citation will provide that the violator can request a
7 hearing with the Guam Environmental Protection Agency Board of
8 Directors (the "Board").

9 (E) The Board can impose a fine up to Three Thousand Dollars
10 (\$3,000.00) per violation noted in the citation. Costs of corrective
11 action and community service in lieu of all or a portion of the fine may
12 be accepted by the Board.

13 (F) Fines imposed and collected under this Section will be
14 deposited into the Water Protection Fund. Judicial review may be had
15 of any Board decision by any party affected adversely by it.

16 (G) If the Board decision is not in accordance with law or not
17 supported by substantial evidence, the Court shall remand the Board to
18 take action according to law or the evidence.

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

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

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

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

21 (iii) Any order issued as part of a notice or after hearing
22 may prescribe the date or dates by which the violation or
23 violations shall cease may prescribe timetables for the necessary
24 action in preventing, abating or controlling the pollution or
25 discharge.

26 (B) In determining the amount of any penalty assessed, the
27 Administrator shall take into account the nature, circumstances, extent

1 and gravity of the violation or violations and with respect to the
2 violator, ability to pay, any prior history of such violations, the degree
3 of culpability, economic benefit or savings if any resulting from the
4 violation, and such other matters as justice may require.

5 (C) If any person fails to pay an assessment of a civil penalty
6 after the order making the assessment has become final, or after a Court
7 in an action has entered a final judgment in favor of the Administrator,
8 the Administrator shall request the Attorney General to bring a civil
9 action to recover the amount assessed. In such an action, the validity,
10 amount, and appropriateness of such penalty shall not be subject to
11 review.

12 (D) The Administrator may settle, modify or release, with or
13 without conditions, any administrative penalty which may be imposed
14 under this Section."