

I Mina'trentai Siette Na Liheslaturan Guåhan
 BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
116-37 (COR) As substituted by the Committee on Health, Land, Justice and Culture; and further substituted and amended on the Floor	Therese M. Terlaje Sabina Flores Perez Telo T. Taitague Chris Barnett Joanne Brown	AN ACT TO ADD NEW SUBSECTIONS (mm), (nn), AND (oo) TO ARTICLE 1, CHAPTER 61, TITLE 21, GUAM CODE ANNOTATED; AMEND § 61304(b)(7), § 61309(b), § 61310, OF ARTICLE 3, CHAPTER 61, TITLE 21, GUAM CODE ANNOTATED; TO AMEND §66201.1 OF ARTICLE 2, CHAPTER 66, TITLE 21, GUAM CODE ANNOTATED; AND TO ADD A NEW § 10104(d)(9), § 10104(a)(3), § 10106(b)(6), § 10104(c)(5)(E), § 10104(c)(5)(F), § 10107(g), § 10103(88), § 10103(89), AND §10107(g)(4) TO CHAPTER 10, TITLE 22, GUAM ADMINISTRATIVE RULES AND REGULATIONS RELATIVE TO STRENGTHENING AND HARMONIZING GOVERNMENT AGENCY ENFORCEMENT CAPABILITIES AND ENSURING BEST MINING OR QUARRYING PRACTICES.	5/11/23 2:43 p.m.	5/15/23	Committee on Health, Land, Justice, and Culture	Request: 5/15/23 6/8/23	7/29/23 8:30 a.m.	1/10/24 4:35 p.m.	As substituted by the Committee on Health, Land, Justice, and Culture
	SESSION DATE	TITLE	FAILED PASSAGE	NOTES					
	1/22/24	AN ACT TO ADD NEW SUBSECTIONS (mm), (nn), AND (oo) TO § 61103 OF ARTICLE 1, AND AMEND §§ 61304(b)(7), 61309(b), AND 61310 OF ARTICLE 3, CHAPTER 61; AND AMEND § 66201.1 OF ARTICLE 2, CHAPTER 66, ALL OF TITLE 21, GUAM CODE ANNOTATED; AND TO ADD NEW §§ 10104(d)(8), 10104(a)(3), 10104(c)(5)(E), 10104(c)(5)(F), 10107(g), 10103(c)(88) AND (89), AND 10107(g)(4), AND AMEND § 10106(b)(6), ALL OF CHAPTER 10, TITLE 22, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO STRENGTHENING AND HARMONIZING GOVERNMENT AGENCY ENFORCEMENT CAPABILITIES AND ENSURING BEST MINING OR QUARRYING PRACTICES.	1/26/24						
	SESSION DATE	TITLE	FAILED PASSAGE	NOTES					
2/19/24	AN ACT TO ADD NEW SUBSECTIONS (mm), (nn), AND (oo) TO § 61103 OF ARTICLE 1, AND AMEND §§ 61304(b)(7), 61309(b), AND 61310 OF ARTICLE 3, CHAPTER 61; AND AMEND § 66201.1 OF ARTICLE 2, CHAPTER 66, ALL OF TITLE 21, GUAM CODE ANNOTATED; AND TO ADD NEW §§ 10104(d)(8), 10104(a)(3), 10104(c)(5)(E), 10104(c)(5)(F), 10107(g), 10103(c)(88) AND (89), AND 10107(g)(4), AND AMEND § 10106(b)(6), ALL OF CHAPTER 10, TITLE 22, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO STRENGTHENING AND HARMONIZING GOVERNMENT AGENCY ENFORCEMENT CAPABILITIES AND ENSURING BEST MINING OR QUARRYING PRACTICES.	2/23/24							

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. 116-37 (COR)

As substituted by the Committee on Health, Land,
Justice and Culture; and further substituted and
amended on the Floor.

Introduced by:

Therese M. Terlaje
Sabina Flores Perez
Telo T. Taitague
Chris Barnett
Joanne Brown

AN ACT TO *ADD* NEW SUBSECTIONS (mm), (nn), AND (oo) TO § 61103 OF ARTICLE 1, AND *AMEND* §§ 61304(b)(7), 61309(b), AND 61310 OF ARTICLE 3, CHAPTER 61; AND *AMEND* § 66201.1 OF ARTICLE 2, CHAPTER 66, ALL OF TITLE 21, GUAM CODE ANNOTATED; AND TO *ADD* NEW §§ 10104(d)(8), 10104(a)(3), 10104(c)(5)(E), 10104(c)(5)(F), 10107(g), 10103(c)(88) AND (89), AND 10107(g)(4), AND *AMEND* § 10106(b)(6), ALL OF CHAPTER 10, TITLE 22, GUAM ADMINISTRATIVE RULES AND REGULATIONS, RELATIVE TO STRENGTHENING AND HARMONIZING GOVERNMENT AGENCY ENFORCEMENT CAPABILITIES AND ENSURING BEST MINING OR QUARRYING PRACTICES.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that Guam’s laws, rules, and regulations need strengthening to close regulatory gaps
4 for quarrying and other functions under erosion and sediment controls to mitigate
5 potential environmental impacts associated with aggregate extraction, including

1 conversion of land use, changes to the landscape, loss of habitat, dust blasting
2 effects, erosion and sedimentation.

3 *I Liheslaturan Guåhan* further finds that as the demand for aggregate goes up,
4 so too, does the value of that aggregate and the pressure on government agencies to
5 approve permitting for the removal of this aggregate from Guam’s limited land
6 resources.

7 Therefore, it is the intent of *I Liheslaturan Guåhan* to strengthen efforts to
8 protect the health and safety of those in the surrounding areas of quarries, and
9 especially Guam’s aquifer, by strengthening and harmonizing government
10 enforcement capabilities and ensuring best mining practices by private industry.

11 **Section 2.** New Subsections (mm), (nn) and (oo) are hereby *added* to §
12 61103 of Article 1, Chapter 61, Title 21, Guam Code Annotated, to read:

13 “(mm) Biological Extractive Industry. Any extractive industry which
14 includes harvesting of flora in an A Rural Zone that is intended to be used as raw
15 materials for other purposes. The extractive industry must not have detrimental
16 effects to the long term biological or geological functionality of the property to
17 provide future production of agricultural resources.

18 (nn) Quarry. An open excavation usually for obtaining building stone, slate,
19 coral, or limestone for use as building materials.

20 (oo) Quarrying. The business, occupation, or act of extracting material, such
21 as building stone, slate, coral or limestone from quarries. A finding that an activity
22 constitutes quarrying may be based on any combination of the following:

23 (1) The size and duration of the proposed earthmoving activity.
24 Quarrying involves the excavation and hauling of a large volume of material
25 usually over a long period of time (months to years), during which the
26 excavation for the property may be the main feature of this project.

1 Segmenting a larger project into multiple smaller earthmoving projects shall
2 not be allowed as a means of avoiding classification as quarrying.

3 (2) The efficiency and appropriateness of the grading design.
4 Excavation for the purpose of quarrying is typically excessive and inefficient
5 for excavation as its primary feature, as opposed to grading, in which the
6 excavation is only incidental to the construction of the ultimate use. Grading
7 design involves the efficient use of labor, material and equipment, such as the
8 relocation of soil and rock from elevated areas of the site to lower areas that
9 need to be filled, rather than the creation of a massive excavation in which all
10 material is hauled away for use elsewhere. Efficient grading of a site usually
11 results in a balance of cut and fill volumes, with little to no need to haul or
12 dispose of excess soil or rock. Efficient grading of a site may also include the
13 creation of multiple cut-and-fill terraces, rather than a single, large excavation
14 or fill. Additionally, the topographic features and the bare stone surfaces left
15 behind by the massive excavation operations associated with quarrying are
16 intrinsically unsuitable for many types of common land uses such as
17 residential subdivisions or commercial properties.

18 (3) The creation of a substantial commercial benefit. If the project
19 proponent would obtain a substantial commercial benefit from the excavated
20 material, whether in their own construction projects, or through the selling of
21 the material to other parties for use in the construction, the proposed activity
22 meets the definition of quarrying, regardless of the final proposed land use.”

23 **Section 3.** § 61304(b)(7) of Article 3, Chapter 61, Title 21, Guam Code
24 Annotated, is hereby *amended* to read:

25 “(7) Biological extractive industry.”

26 **Section 4.** § 61309(b) of Article 3, Chapter 61, Title 21, Guam Code
27 Annotated, is hereby *amended* to read:

1 “(b) Conditional Use.

2 (1) Other industrial uses not objectionable, obnoxious or
3 offensive by reason of odor, dust, smoke, noise, gas fumes, cinders,
4 vibration, flashing lights, or water-carried waste.

5 (2) Utilities and public facilities.

6 (3) Accessory uses and buildings for the above.

7 (4) Mining or quarrying that maintains functionality of the
8 property to be consistent with features that support residential or
9 commercial future uses other than a mine or a quarry.”

10 **Section 5.** § 61310 of Article 3, Chapter 61, Title 21, Guam Code
11 Annotated, is hereby *amended* to read:

12 “**§ 61310. M2 Heavy Industrial Zone.**

13 (a) Use Permitted.

14 (1) Any uses permitted in the M1 zone, excepting
15 residential use.

16 (2) Junk Yards. Under the special provisions set forth
17 in Subarticle 6, Article 5 of this Chapter.

18 (3) Any other uses not specifically prohibited by law,
19 including those which are or may be objectionable, obnoxious,
20 or offensive by reason of odor, dust, smoke, noise, gas fumes,
21 cinders, vibration, or water-carried waste.

22 (4) Uses customarily accessory to any of the uses herein
23 permitted, and accessory buildings and structures.

24 (b) Conditional Use.

25 (1) All residential uses.

26 (2) Accessory uses and structures for the above.

27 (3) Mining or quarrying.”

1 **Section 6.** § 66202.1 of Article 2, Chapter 66, Title 21, Guam Code
2 Annotated, is hereby *amended* to read:

3 **“§ 66202.1. Clearing, Grubbing, Grading, and Stockpiling Permit**
4 **Required.**

5 (a) A permit for clearing, grubbing, grading, and stockpiling
6 shall be required.

7 An application for the permit shall be submitted to the
8 Department of Public Works by the entity who owns the
9 property, or which is to authorize, complete, or contract for the
10 proposed project on government land, or by the private owner or
11 lessee of the property, or agent of either, or by the licensed
12 engineer or architect employed in connection with the proposed
13 work, with the approval of the following agencies indicated on
14 the application to the Department of Public Works: Department
15 of Land Management, Zoning Division; Department of Parks and
16 Recreation, Guam State Historic Preservation Office; Guam
17 Waterworks Authority; Guam Contractors Licensing Board;
18 Guam Power Authority; Guam Environmental Protection
19 Agency; Guam Geodetic Network Survey Division; and the
20 Department of Agriculture. No fee shall be charged for
21 government application for a permit pursuant hereto and the
22 application shall be submitted in such form as the Building
23 Official may prescribe. Government entities shall be subject to
24 all other applicable provisions of this Chapter. Clearing,
25 grubbing, grading, stockpiling, or construction shall not begin on
26 any government property or project in violation of this statute.
27 Building Officials and Guam Peace Officers are authorized to

1 issue citations to violators of this Section in accordance with the
2 rules and regulations promulgated by the Department of Public
3 Works in this regard. Officers acting in violation of this statute
4 shall be held personally liable for all damages resulting
5 therefrom, and shall be subject to a fine of One Thousand Dollars
6 (\$1,000) for each offense, and may be fined up to Five Thousand
7 Dollars (\$5,000) for violations after the third violation of this
8 Section.

9 (b) A permit for clearing, grubbing, grading, stockpiling, and
10 construction stockpiling shall be required of government, autonomous,
11 and public entities in the same manner as private citizens.

12 An application for the permit shall be submitted to the
13 Department of Public Works by the entity who owns the
14 property, or which is to authorize, complete, or contract for the
15 proposed project on government land, or by the private owner or
16 lessee of the property, or agent of either, or by the licensed
17 engineer or architect employed in connection with the proposed
18 work, with the approval of the following agencies indicated on
19 the application to the Department of Public Works: Department
20 of Land Management, Zoning Division; Department of Parks and
21 Recreation, Guam State Historic Preservation Office; Guam
22 Waterworks Authority; Guam Contractors Licensing Board;
23 Guam Power Authority; Guam Environmental Protection
24 Agency; Guam Geodetic Network Survey Division; and the
25 Department of Agriculture. No fee shall be charged for
26 government application for a permit pursuant hereto and the
27 application shall be submitted in such form as the Building

1 Official may prescribe. Government entities shall be subject to
2 all other applicable provisions of this Chapter. Clearing,
3 grubbing, grading, stockpiling or construction shall not begin on
4 any government property or project in violation of this statute.
5 Building Officials and Guam Peace Officers are authorized to
6 issue citations to violators of this Section in accordance with the
7 rules and regulations promulgated by the Department of Public
8 Works in this regard. Officers acting in violation of this statute
9 shall be held personally liable for all damages resulting
10 therefrom, and shall be subject to a fine of One Thousand Dollars
11 (\$1,000) for each offense, and may be fined up to Five Thousand
12 Dollars (\$5,000) for violations after the third violation of this
13 Section.

14 (c) Government, autonomous, and public entities shall not be
15 required to obtain the permit required in Subsection (b) for work done
16 in response to typhoons, earthquakes, or other natural disaster or
17 emergency as declared by *I Maga'låhen/Maga'hågan Guåhan* and
18 requiring an immediate response in order to minimize environmental
19 damage, restore utility services, or protect utility systems.”

20 **Section 7.** A new §10104(d)(8) is hereby *added* to Chapter 10, Title 22,
21 Guam Administrative Rules and Regulations, to read:

22 “(8) Mining or quarrying shall be approved in an M1 or M2 zone by the
23 Guam Land Use Commission through a Notice of Action, and will require a quarry
24 permit by the Department of Public Works with approval from the Guam
25 Environmental Protection Agency, Department of Labor, Bureau of Statistics and
26 Plans, Department of Land Management, Guam Geodetic Network (GGN) Survey
27 Division, Department of Agriculture, Department of Parks and Recreation, Guam

1 State Historic Preservation Office, Guam Waterworks Authority, and the Guam
2 Contractors Licensing Board. The Chamorro Land Trust Commission and the Guam
3 Ancestral Lands Commission shall be included as an approving agency if the permit
4 is for Chamorro Land Trust property or is Guam Ancestral Lands Commission
5 property. No permit shall be issued without conformance to all requirements or
6 conditions of these approving agencies.”

7 **Section 8.** A new §10104(a)(3) is hereby *added* to Chapter 10, Title 22,
8 Guam Administrative Rules and Regulations, to read:

9 “(3) Unless exempted, no person shall commence or perform any mining or
10 quarrying without a quarrying permit.”

11 **Section 9.** § 10106(b)(6) of Chapter 10, Title 22, Guam Administrative
12 Rules and Regulations, is hereby *amended* to read:

13 “(6) Cut and Fill.

14 (A) The conditions of the following Subsections may be
15 modified by the Administrator based on a supportive engineer’s soils
16 report, and receipt of approvals from the owner and Department of
17 Labor, Guam Land Use Commission, Bureau of Statistics and Plans,
18 Department of Land Management, GGN Survey Division, Department
19 of Agriculture, Department of Parks and Recreation, Guam State
20 Historic Preservation Office, and the Contractors Licensing Board. The
21 Chamorro Land Trust Commission shall be included as an approving
22 agency if the permit is for Chamorro Land Trust property:

23 (i) Height. Where a cut or fill is greater than fifteen
24 (15) feet in height, terraces, or benches shall be constructed at
25 vertical intervals of fifteen (15) feet except where only one bench
26 is required, the single bench shall be constructed at the midpoint.
27 The minimum width of such terraces or benches shall be at least

1 eighteen (18) feet and provided with drainage provisions to
2 control erosion on the slope and face and bench surface.

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

6 (aa) 2 horizontal to 1 vertical in unweathered rock
7 or mudrock;

8 (bb) 2 horizontal to 1 vertical in decomposed rock;
9 or

10 (cc) 2 horizontal to 1 vertical in soils of low
11 plasticity for cuts of any height in highly plastic soils. The
12 engineer's soils report shall include the recommended
13 slope design, and design calculations necessary to
14 demonstrate slope stability.

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

22 (aa) Fill material shall be selected to meet the
23 requirements and conditions of the particular fill for which
24 it is to be used. The fill material shall not contain
25 vegetation or organic matter. Where rocks, concrete, or
26 similar materials of greater than eight (8) inches in
27 diameter are incorporated into the fill, they shall be placed

1 in accordance with the recommendation of the
2 professional civil engineer.

3 (bb) Before placing fill or stockpiling, the natural
4 ground surface shall be prepared by removing the
5 vegetation and, shall be notched by a series of benches
6 and/or subsurface drains installed.

7 (cc) No fill shall be placed over any waters of
8 Guam (e.g., spring, marsh, wetlands), refuse dumps, or
9 soft, soggy or springy foundations. The plan must
10 highlight possible wetland characteristics on the site and
11 adjacent properties.

12 (dd) Fill materials shall be spread and compacted
13 in a series of eight (8) inch to five ten (10) inch layers, unless
14 otherwise recommended by the professional civil
15 engineer. For slopes, the fill shall be compacted to ninety-
16 five percent (95%) maximum density as determined by the
17 most recent ASTM Soil Compaction Test D1557. The
18 engineer's soils report shall include the recommended
19 slope design, and design calculations necessary to
20 demonstrate slope stability.

21 (ee) Distance from Property Line. The following
22 requirements may be modified by the Administrator when
23 cuts or fills are supported by retaining walls or when the
24 permittee submits an engineer's soils report stating that the
25 soil conditions will permit a lesser horizontal distance
26 without causing damage or danger to the adjoining
27 property. The engineer's soils report shall include the

recommended slope design, and design calculations necessary to demonstrate slope stability. The horizontal distance from the top of a cut slope or the bottom of a fill slope to the adjoining property line shall not be less than as follows:

	Distance from property line (in feet)
Heights of cut or fill	
Zero feet to 4 feet	4
More than 4 feet to 10 feet	6
More than 10 feet to 15 feet	8
More than 15 feet	10”

Section 10. A new § 10104(c)(5)(E) is hereby *added* to Chapter 10, Title 22, Guam Administrative Rules and Regulations, to read:

“(E) The CNMI and Guam Stormwater Management Manual shall be used as the best management practices (BMP) guidance manual for all non-transportation construction projects and construction projects on private property. In addition, the Administrator may periodically issue updates and corrections to this manual as necessary. The Administrator shall ensure that the most current version of the manual and all updates and corrections are available to the public through the agency website.

(i) Minor updates and corrections may be issued as technical memoranda directly by the Administrator, to include, but not be limited to: corrections and updates of factors used in calculations; simplified or alternative methods of calculation for sizing criteria; additional design

1 examples; sample spreadsheets; calculation templates; minor updates to BMP
2 design details, and new BMP types which complement the overall design
3 approach set forth in the manual (to include, for any new BMPs, feasibility,
4 conveyance, treatment, pretreatment, landscaping, and maintenance
5 provisions).

6 (ii) Major updates which would require adoption of a new or revised
7 BMP manual by regulation would include, but not be limited to: changes to
8 the unified sizing criteria for stormwater management practices or overall
9 stormwater management design approach set forth in the manual; additions to
10 or removal of construction and post-construction criteria and treatment
11 standards; and significant additions, subtractions, or modifications to BMP
12 design guidance which would reduce environmental and BMP service life
13 protections.”

14 **Section 11.** A new §10104(c)(5)(F) is hereby *added* to Chapter 10, Title 22,
15 Guam Administrative Rules and Regulations, to read:

16 “(F) The Guam Transportation Stormwater Drainage Manual prepared by
17 the Department of Public Works (DPW) shall be used as the best management
18 practices (BMP) guidance manual for all local and federal-aid public transportation
19 projects, including highway and roadway projects. In addition, the Director of DPW
20 may periodically issue updates and corrections to this manual as necessary. Copies
21 of the latest version of the Guam Transportation Stormwater Drainage Manual shall
22 be obtained from DPW.”

23 **Section 12.** A new §10107(g) is hereby *added* to Chapter 10, Title 22, Guam
24 Administrative Rules and Regulations, to read:

25 “(g) Mining and Quarrying Activities. Mining and/or quarrying activities
26 shall be considered to be active earthmoving activities for the duration of operation
27 of the activity until closure of the mine or quarry, and shall be required to obtain a

1 new permit on at least an annual basis pursuant to the provisions of § 10110, and
2 pay new fees pursuant to § 10109. In order to obtain any permit for mining and/or
3 quarrying activities, the following requirements must be satisfied:

4 (1) If quarry activities are on-going, the site must be subjected to a
5 comprehensive inspection by Guam EPA and must be found by the
6 Administrator to be in compliance with all approved application documents,
7 permit conditions, and requirements of this Chapter.

8 (2) All mining and/or quarrying activities shall submit a mining
9 and/or quarrying operations plan that shall consist of the following
10 components:

11 (A) a site plan showing the maximum extent of mining and/or
12 quarrying activities, the location of equipment storage and maintenance
13 facilities, and the location of all other structures and activities,
14 including employee restrooms or temporary toilets. The site plan shall
15 also depict the location of the one thousand (1,000) wellhead protection
16 radius surrounding all nearby public water supply wells, and the
17 location of the boundary of the Groundwater Protection Zone. The site
18 plan must be updated to reflect as-built conditions on an annual basis;

19 (B) an Environmental Protection Plan (EPP) as required under
20 § 10104(c)(5)(D) shall be submitted and updated on an annual basis. In
21 addition to the broad requirements stated under § 10104(c)(5)(D), the
22 EPP must include a map showing the locations of, and include
23 provisions specific to the safe storage, use and prevention of spills of
24 hazardous and toxic materials. The EPP must specifically address
25 measures to prevent discharges of such materials in excavated areas of
26 the site, which constitute a high risk of groundwater contamination due
27 to the closer proximity to the water table and the removal of vegetation,

1 soil, and the upper, weathered region of stone that ordinarily provides
2 additional protection. The EPP must also include, at a minimum, the
3 requirement to provide a designated equipment servicing area(s)
4 constructed of impervious lined surfaces with spill containment berms,
5 and readily available spill response materials used in accordance with
6 a Guam EPA-approved spill response plan;

7 (C) a report documenting the total cubic yards of material
8 excavated and removed from the site for the previous year, as well as
9 since the initial start of operations; the total cubic yards of material
10 remaining to be removed from the site; the percent completion of
11 removal; and the estimated time in years until all material has been
12 removed and closure activities will be required to begin; and

13 (D) a site safety plan which specifically addresses hazards to
14 neighboring residents and the general public, such as (but not limited
15 to) restriction of access to high and steep cut slopes, barriers to prevent
16 vehicular accidents and access to the pit (such as berms), and provisions
17 to prevent and discourage littering and dumping, such as barriers and
18 frequent removal of litter and other solid wastes.

19 (3) A quarry site closure and reclamation plan including the
20 following minimum components shall be submitted and updated on an annual
21 basis for all mining and/or quarrying activities and shall be subject to review
22 and approval by the Administrator:

23 (A) a post-closure grading plan showing all proposed final
24 grades, with cross-sections and slope specifications. The post-closure
25 grading plan shall depict the final proposed grading and appearance of
26 the site following reclamation and restoration, and shall be consistent

1 with all requirements of this Chapter, with the mandatory addition of
2 measures specifically designed to conceal or screen visible scars.

3 (i) For the purpose of approving post-closure grading
4 plans, the Administrator shall only approve permanent cut slopes
5 exceeding the 2 horizontal to 1 vertical limit under §
6 10106(b)(6)(A)(ii) if supported by a soils/geotechnical report
7 prepared and certified by a professional engineer who specializes
8 in geotechnical services as their primary business, and if in
9 receipt of written approvals from the property owner and the
10 Director of the Department of Public Works;

11 (B) a slope stabilization and revegetation plan. The plan must
12 include a complete description of the pre-development vegetation, the
13 vegetation to be removed and its disposal location, the vegetation to be
14 planted, and the erosion control and slope stabilization measures to be
15 installed to facilitate the re-establishment of vegetation (e.g., benching
16 or terracing of cut slopes, etc.);

17 (C) the permittee shall stockpile all top soil on the site for use
18 on areas to be re-vegetated, or identify a source of top soil to be used
19 for this purpose. The permittee shall provide a notation on the site
20 development and grading plans stating this requirement, and specifying
21 one or more stockpile locations;

22 (D) for quarries exceeding twenty (20) acres in total size, a
23 phased reclamation plan shall be required which provides for the
24 progressive closure and reclamation as portions of the quarry are
25 exhausted, to limit the total area affected by quarrying operations at any
26 given time to no more than twenty (20) acres, consistent with §
27 10106(a)(2); and

1 (E) a plan for the final disposition of all site structures, and the
2 removal and proper disposal of all site equipment.”

3 **Section 13.** New §§ 10103 (88) and (89) are hereby *added* to Chapter 10,
4 Title 22, Guam Administrative Rules and Regulations, to read:

5 “(88) Quarry: An open excavation usually for obtaining building stone, slate,
6 coral, or limestone for use as building materials.

7 (89) Quarrying: The business, occupation, or act of extracting material, such
8 as building stone, slate, coral or limestone from quarries. A finding that an activity
9 constitutes quarrying may be based on any combination of the following:

10 (A) The size and duration of the proposed earthmoving activity.
11 Quarrying involves the excavation and hauling of a large volume of material
12 over a long period of time (months to years), during which the excavation for
13 the property is the main feature of this project. Segmenting a larger project
14 into multiple smaller earthmoving projects shall not be allowed as a means of
15 avoiding classification as quarrying.

16 (B) The efficiency and appropriateness of the grading design.
17 Excavation for the purpose of quarrying is typically excessive and inefficient
18 for excavation as its primary feature, as opposed to grading, in which the
19 excavation is only incidental to the construction of the ultimate use. Grading
20 design involves the efficient use of labor, material and equipment, such as the
21 relocation of soil and rock from elevated areas of the site to lower areas that
22 need to be filled, rather than the creation of a massive excavation in which all
23 material is hauled away for use elsewhere. Efficient grading of a site usually
24 results in a balance of cut and fill volumes, with little to no need to haul or
25 dispose of excess soil or rock. Efficient grading of a site may also include the
26 creation of multiple cut-and-fill terraces, rather than a single, large excavation
27 or fill. Additionally, the topographic features and the bare stone surfaces left

1 behind by the massive excavation operations associated with quarrying are
2 intrinsically unsuitable for many types of common land uses such as
3 residential subdivisions or commercial properties.

4 (C) The creation of a substantial commercial benefit. If the project
5 proponent would obtain a substantial commercial benefit from the excavated
6 material, whether in their own construction projects, or through the selling of
7 the material to other parties for use in the construction, the proposed activity
8 meets the definition of quarrying, regardless of the final proposed land use.”

9 **Section 14.** A new §10107(g)(4) is hereby *added* to Chapter 10, Title 22,
10 Guam Administrative Rules and Regulations, to read:

11 “(4) In determining whether a proposed earthmoving activity is “quarrying”
12 as opposed to “grading” for some future land use, the following three (3) major
13 factors shall be taken into consideration. A finding that an activity constitutes
14 “quarrying” may be based on any combination of the following:

15 (A) The size and duration of the proposed earthmoving activity.
16 Quarrying involves the excavation and hauling of a large volume of material
17 over a long period of time (months to years), during which the excavation of
18 the property is the main feature of the project. Segmenting a larger project into
19 multiple, smaller earthmoving projects shall not be allowed as a means of
20 avoiding classification as quarrying.

21 (B) The efficiency and appropriateness of the grading design.
22 Excavation for the purpose of quarrying is typically excessive and inefficient
23 for any other type of future land use. Quarrying involves massive excavation
24 as its primary feature, as opposed to grading, in which the excavation is only
25 incidental to the construction of the ultimate use. Grading design involves the
26 efficient use of labor, material and equipment, such as the relocation of soil
27 and rock from elevated areas of the site to lower areas that need to be filled,

1 rather than the creation of a massive excavation in which all material is hauled
2 away for use elsewhere. Efficient grading of a site usually results in a balance
3 of cut and fill volumes, with little to no need to haul or dispose of excess soil
4 or rock. Efficient grading of a site may also include the creation of multiple
5 cut-and-fill terraces, rather than a single, large excavation or fill. Additionally,
6 the topographic features (for example, large holes or depressions) and the bare
7 stone surfaces left behind by the massive excavation operations associated
8 with quarrying are intrinsically unsuitable for many types of common land
9 uses such as residential subdivisions or commercial properties.

10 (C) The creation of a substantial commercial benefit. If the project
11 proponent would obtain a substantial commercial benefit from the excavated
12 material, whether in their own construction projects, or through the selling of
13 the material to other parties for construction or other uses, the proposed
14 activity meets the definition of quarrying, regardless of the final proposed land
15 use.”

16 **Section 15. Promulgation of Rules and Regulations.** The Department of
17 Public Works shall promulgate and enforce rules and regulations, to include the
18 establishment of fees, for the application and issuance of permits for clearing,
19 grading, grubbing, filling, excavating, embanking, stockpiling, mining and
20 quarrying consistent with 22 GAR Chapter 10 Guam Soil and Sediment Control
21 Regulations and in accordance with 5 GCA Chapter 9. No permit may be issued
22 without conformance to all requirements or conditions of the Guam EPA,
23 Department of Labor, Guam Land Use Commission, Bureau of Statistics and Plans,
24 Department of Land Management, GGN Survey Division, Department of
25 Agriculture, Department of Parks and Recreation, Guam State Historic Preservation
26 Office, and the Contractors Licensing Board. The Chamorro Land Trust
27 Commission and the Guam Ancestral Lands Commission shall be included as an

- 1 approving agency if the permit is for Chamorro Land Trust property or is Guam
- 2 Ancestral Lands Commission property.