

# I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN

## 2024 (SECOND) Regular Session

### VOTING RECORD

<b>Bill No. 116-37 (COR)</b> As substituted by the Committee on Health, Land, Justice, and Culture; and further substituted and amended on the Floor.	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building January 26, 2024					
NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator Chris Barnett	✓					
Senator Frank Blas, Jr.		✓				
Senator Joanne Brown	✓					
Senator Christopher M. Dueñas		✓				
Senator Thomas J. Fisher		✓				
Senator Jesse A. Lujan	✓					
Vice Speaker Tina Rose Muña Barnes		III ✓				
Senator William A. Parkinson		✓				
Senator Sabina Flores Perez	✓					
Senator Roy A. B. Quinata		III ✓				
Senator Joe S. San Agustin		I ✓				
Senator Dwayne T.D. San Nicolas		✓				
Senator Amanda L. Shelton		III ✓				
Senator Telo T. Taitague	✓					
Speaker Therese M. Terlaje	✓					

**TOTAL**

6

9

0

0

Aye

Nay

Not  
Voting/  
Abstained

Out  
During  
Roll Call

Absent

Excused

CERTIFIED TRUE AND CORRECT:

JOAQUIN P. TAITAGUE  
Clerk of the Legislature

I = Pass

***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

1 recommended slope design, and design calculations  
2 necessary to demonstrate slope stability. The horizontal  
3 distance from the top of a cut slope or the bottom of a fill  
4 slope to the adjoining property line shall not be less than  
5 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”

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

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

24 (i) Minor updates and corrections may be issued as technical  
25 memoranda directly by the Administrator, to include, but not be limited to:  
26 corrections and updates of factors used in calculations; simplified or  
27 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.