

CHAPTER 2401-1 EARTHMOVING REGULATIONS

2401-1-01 Authority

These regulations are promulgated by the Republic of Palau Environmental Quality Protection Board pursuant to the authority granted it by Title 24 of the *Palau National Code*. These regulations shall have the force and effect of law.

2401-1-02 Purpose and Scope

The purpose and scope of these regulations is to establish criteria and procedures for erosion and sediment control throughout the Republic of Palau. Eroded soil endangers water resources by degrading water quality; erosion materials increase turbidity, transport bacteria and toxic substances, and cause the siltation of aquatic habitat for fish, corals, and other desirable species. These regulations are designed to promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the surface or subsurface, results in the movement of soil on land, or alters the natural sedimentation process in bodies of water within the Republic of Palau.

2401-1-03 Applicability

These regulations shall apply to all earthmoving activities as defined herein that begin on or after the effective date of these regulations.

2401-1-04 Definitions

As used herein, unless the context otherwise requires, the term:

- (A) "Accelerated Erosion" means the removal of the surface of the land, through the combined action of human activities and natural processes, at a rate greater than would result through the action of natural processes alone.
- (B) "Accelerated Sedimentation" means sedimentation resulting from the combined action of human activities and natural processes, including but not limited to storms, heavy rains, and high winds, at a rate greater than would result through the action of natural processes alone.
- (C) "Adverse Impact" means any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics, or usefulness for human or natural uses, that are or may potentially be harmful or injurious to human health, welfare, safety or propriety, biological productivity, diversity, or stability, or that unreasonably interferes with the enjoyment of life or property, including outdoor recreation.
- (D) "Agency" or "agencies" means any Ministry, office, commission, authority, administration, board, government-owned corporation, or other independent establishment of any branch of the government of the Republic of Palau or any branch of a state government.
- (E) "Agriculture" means farming including the cultivation of soil for the growing of crops. For the purposes of these regulations, aquaculture and the raising of animals or livestock are specifically excluded from this definition.
- (F) "Applicant" means any person who submits an application to the Republic of Palau's Environmental Quality Protection Board pursuant to these regulations.
- (G) "Board" or "EQPB" means the Republic of Palau Environmental Quality Protection Board or its authorized representative.

- (H) "Clearing" means the total or partial removal of vegetation, structures, or other objects associated with a construction activity.
- (I) "Conveyance Channel" means a channel, other than an interceptor channel, used for the conveyance of water through or around a project site.
- (J) "Diversion Terrace" means a channel or dike constructed upslope of a project site for the purpose of diverting storm water away from an unprotected slope.
- (K) "Earthmoving" means any construction or other activity that disturbs or alters the surface of the land, or subsurface areas beneath a body of water, including, but not limited to a coral reef, bottom of a lagoon, ocean floor, rivers, lakes, or other freshwater sources, including, but not limited to, excavations, dredging, embankments, land reclamation in a lagoon, land development, mineral extraction, ocean disposal, sand mining, and the moving, depositing or storing of soil, rock, coral, or earth.
- (L) "Embankment" means a deposit of soil, rock, gravel, sand, or other materials, including dredged materials, deposited by man to hold back water or soil.
- (M) "Erosion" means the process by which the surface or subsurface is worn away by water, wind, gravity, chemicals, or man-made actions such as clearing, grading, excavating, or otherwise altering the surface or subsurface.
- (N) "Erosion and Sediment Control Plan" means a plan, made in accordance with the specific requirements set forth in Sections 2401-1-11 through 2401-1-14 of these regulations, that includes a set of best management practices or equivalent measures designed to control surface and/or subsurface erosion, to retain sediment on a particular site during pre-construction and construction related activities, and to provide permanent erosion and sedimentation controls measures and the maintenance of such control measures.
- (O) "Excavation" means a cavity formed by quarrying, dredging, uncovering, displacing, or relocating soil, coral, or rock or other similar activities.
- (P) "Filling" or "Fills" means any rock, soil, sand, gravel, or other material, including dredged materials, deposited by man.
- (Q) "Interceptor Channel" means a channel or dike constructed across a slope for the purpose of intercepting storm water, reducing the speed of water flow, or diverting it to outlets where it can be disposed of with minimal erosion.
- (R) "Land Development" means the constructing, installing, placing, or building of surface structures, land reclamation, quarries, navigation channels, harbors, utility lines, piers, shopping centers, causeways, golf courses, apartment complexes, hotels, schools, roads, parking areas, or any other similar activity.
- (S) "Permittee" means the person to whom the permit is issued and shall be the owner or developer of the property whether a person, firm, corporation, partnership or other legal entity having legal or equitable title to the property and being responsible for the work.
- (T) "Person" means the Republic of Palau, a state, a political subdivision, a public or private institution, a corporation, a partnership, a sole proprietor, a joint venture, an association, a firm, or a company organized or existing under the laws of the Republic or of any state or country, a lessee or other occupant of property, or an individual, singly or as a group.
- (U) "Sand Mining" means the taking of any rock, sand, gravel, coral rubble, or other material from any subsurface or near-shore site, including but not limited to, beaches, lagoons, and reefs.

- (V) "Sediment" means soils or other erosion materials (surface or subsurface) transported or deposited by the action of wind, water, gravity, or artificial means.
- (W) "Sedimentation" means the process by which sediment is deposited on the bottom of a body of water, including, but not limited to, rivers, streams, ponds, lakes, the ocean floor, the bottom of lagoons, or the tops of reefs.
- (X) "Sedimentation Retention Boom" means a watertight membrane suspended from floats and weighted at the bottom in water bodies arranged in a manner that will confine sediments to a local area.
- (Y) "Stabilization" means the act or process of preventing erosion through the proper placing, grading, covering, and/or compaction of soil, rock, coral, or earth and/or through the use of vegetation.
- (Z) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include, but are not limited to, saltwater marshes, saltwater swamps, freshwater marshes, freshwater swamps, brackish swamps, mangrove swamps, and cultivated wetlands.

PERMITS

2401-1-05 Permit Required

- (A) Any person who engages in earthmoving activity within the Republic of Palau shall first obtain a permit from the Board for the proposed activity.
- (B) Notwithstanding the permitting requirement set forth in Subsection (A) of this Section, no permit is required for the following activities:
 - (1) Where the earthmoving activity is for plowing or tilling for agricultural purposes that involves 10,000 square feet or less of land;
 - (2) Where the earthmoving activity is for, and at the site of, the construction and operation of a solid waste landfill site that is permitted under Solid Waste Management Regulations promulgated by the EQPB;
 - (3) Minor residential land-disturbing activities of less than 1,000 square feet such as home gardens and individual home landscaping, repairs and maintenance work;
 - (4) Maintenance or repair undertaken by the appropriate government agency of any underground public utility lines when such activity occurs on an existing hard surfaced road, street, or sidewalk provided the land-disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced;
 - (5) Installation of sign posts, telephone and electrical poles, and other kinds of posts or poles so long as such posts or poles do not displace more than twenty-two (22) cubic feet of earth per pole or post;
 - (6) Individual cemetery or burial plots; and
 - (7) Emergency work to protect life, limb, or property; however, once the emergency has been met, if the activity was such that an Earthmoving permit would be required, the person who conducted the earthmoving activity shall immediately notify EQPB, stabilize the land area, and take any other actions required by EQPB, pending application for an Earthmoving permit.

- (C) Those persons that qualify under Subsection (B) of this Section to engage in earthmoving activities without a permit must otherwise comply with all provisions of this chapter.
- (D) Any earthmoving activity subject to the provisions of these regulations shall comply with the terms, conditions, provisions, and management plans for any national, state, or traditional conservation area, preserve, or other protected area as established by law.

2401-1-06 Mandatory Project Concept Meeting

Prior to undertaking any significant earthmoving activities that require the investment of over one hundred thousand dollars (\$100,000.00) and/or require the submission of an Environmental Assessment, the land owner, project developer, and contractor are required to participate in a mandatory project concept meeting with EQPB. The purpose of the project concept meeting is to properly assess the potential impact of the project on the Republic of Palau's environment, to ensure the applicant understands all EQPB rules and regulations, and to raise any other environmental issues relevant to the permit application.

2401-1-07 Application for Permit and Fee

- (A) Application for permits shall be completed on forms provided by EQPB and shall be submitted by the person undertaking the earthmoving activity. In the case of land development, the application shall be submitted by the land developer and/or land owner and by the contractor and/or agent.
- (B) Each application shall be accompanied by an Erosion and Sedimentation Control Plan and any other document(s) requested by EQPB or required by other EQPB regulations, including, but not limited to, Toilet Facilities and Wastewater Disposal System Regulations, Marine and Freshwater Quality Regulations, and Environmental Impact Statement Regulations.
- (C) Applications shall be accompanied by a processing fee of one hundred fifty dollars (\$150.00) for commercial applications and twenty-five dollars (\$25.00) for private residence applications. The Government of the Republic of Palau, any state, municipality, or political subdivision thereof, as well as properly registered non-profit organizations, shall pay a processing fee of ten dollars (\$10.00). Application processing fees are non-refundable.
- (D) Applicants shall obtain all necessary permits, licenses, clearances, and/or approvals from the Historical Preservation Office, State Planning Commission, and others as may be required by national, state, or political agencies, prior to approval of the application by the Board. Applicants may request the Board to issue a permit prior to the applicant obtaining said permits, licenses, clearances, and/or approvals. The Board shall have full discretion in deciding whether to grant or deny such requests. If the applicant's request is granted, it shall be a condition of the permit that applicant obtain said permits, licenses, clearances, and/or approvals prior to conducting any earthmoving activities.
- (E) Applications shall be accompanied by the appropriate Environmental Impact Fee as required by 24 PNC § 143(c) & (d), restated in Environmental Impact Statement Regulation § 2401-61-24.
- (F) All applicants shall certify under penalty of law that all the information submitted is, to the best of his or her knowledge and belief, true, accurate, and complete. Applicants shall further acknowledge there are significant penalties for knowingly submitting false information. *See* Section 171(d) of Title 24 of the *Palau National Code*.

- (G) If required by the Board, applicants shall submit an Environmental Assessment in accordance with Environmental Impact Statement Regulations to ensure all environmental concerns are given appropriate consideration in the Board's decision making. If required by a Notice of Determination, applicants shall also submit an Environmental Impact Statement in accordance with Environmental Impact Statement Regulations.
- (H) The Board may, prior to the issuance or denial of a permit, hold a public hearing to determine the facts upon which to base its decision. The Board may hold a public hearing prior to the issuance or denial of a permit if requested by the applicant or other interested person(s).

2401-1-08 Permit Limitations

- (A) The issuance of an Earthmoving permit shall constitute an authorization to conduct only those activities described in the permit, and in the development and construction plans and specifications, provided that any permit conditions required by the Board are met.
- (B) Permits issued under the requirements of these regulations shall not relieve the applicant of responsibility for securing any other required permits, licenses, clearances, or approval of other national, state, or political agencies.

2401-1-09 Modification, Change, or Revocation of Permits

- (A) If any permitted earthmoving activity is causing environmental degradation, the Board may modify the conditions of the permit to minimize such degradation or may revoke the permit, in whole or in part, should the Board determine such actions to be justified and appropriate for environmental protection.
- (B) If, after issuance of a permit, the Board determines that information provided by the applicant proves to be false, misleading, incomplete, or inaccurate, the Board may modify the conditions of, suspend, or revoke the permit in whole or in part.
- (C) The term of a permit shall be within the discretion of the Board, but in no event shall the term be less than one (1) year.

2401-1-10 Permit Renewals and Amendments; New Permit Application Required

- (A) Permit renewals shall be requested in writing to EQPB prior to the expiration of the current permit. The written renewal request shall be accompanied by a ten dollar (\$10.00) renewal fee.
- (B) If the permittee has applied for a permit renewal and the permit expires before the permit renewal is approved, all earthmoving activities must cease until such time as the permit renewal is approved by the Board.
- (C) Once a permit expires, no further applications for permit renewal will be considered by the Board. Instead, a new permit application and application processing fee shall be required in accordance with Section 2401-1-07.
- (D) If there is a minor change in the scope of the earthmoving activities described in the original permit application after the permit has been approved or issued, the permittee must submit an application for a permit amendment in writing to EQPB prior to engaging in said earthmoving activities. The written amendment request shall be accompanied by a ten dollar (\$10.00) amendment fee.

- (E) If there is a major change in the scope of the earthmoving activities described in the original permit application after the permit has been approved or issued, the permittee must submit a new permit application and application processing fee in accordance with Section 2401-1-07.
- (F) The Board shall decide whether a change in the scope of earthmoving activities is considered minor, requiring only a permit amendment, or major, requiring a new permit application.

EROSION AND SEDIMENTATION CONTROL

2401-1-11 General Requirements

- (A) All earthmoving activities within the Republic of Palau shall be conducted in accordance with these regulations and in such a way as to prevent accelerated erosion and accelerated sedimentation.
- (B) To accomplish the requirements set forth in Subsection (A) of this Section, all persons engaging in earthmoving activities shall design, implement, and maintain erosion control measures that effectively prevent accelerated erosion, accelerated sedimentation, and polluting of off-site areas.
- (C) These erosion and sedimentation control measures must be set forth in a Erosion and Sedimentation Control Plan, as described in Sections 2401-1-12 through 2401-1-15, inclusive, of this chapter, and must be:
 - (1) available at all times at the site of the project; and
 - (2) Filed with EQPB.
- (D) The applicant shall, upon request from the Board, demonstrate financial ability to complete the proposed project within a reasonable amount of time.
- (E) Where deemed necessary by the Board, the land owner/developer shall furnish a surety, cash bond, or other means of security acceptable by the Board. The bond shall be of a sufficient amount as determined by the Board to cover the cost of the installation, maintenance, and removal of the erosion and sedimentation controls shown on the approved Erosion and Sedimentation Control Plan. The term of the bond shall remain in force for a period of thirty (30) days after the date of completion of the project and final inspection by the EQPB. The Board may also require the land owner/developer to post additional surety, cash bond, or other means of security acceptable by the Board to cover the cost of restoring the project site in case of project abandonment or unauthorized damage to the environment.

2401-1-12 Erosion and Sedimentation Control Plan Preparation

The Erosion and Sedimentation Control Plan shall be prepared by a person trained and experienced in erosion and sedimentation control methods and techniques. Upon request, applicant shall submit to the Board the qualifications of the plan preparer as part of the permit application.

2401-1-13 Erosion and Sedimentation Control Plan Requirements

The Erosion and Sedimentation Control Plan shall consider all factors that contribute to erosion and sedimentation, and the adverse impacts therefrom, and shall be designed to prevent accelerated erosion and accelerated sedimentation and the resulting adverse impacts. The plan shall include, but is not limited to, the following:

- (A) A project description giving a detailed narrative description of the project's purpose, scale, location, pre-construction and post- construction activities, and other information as may be requested by EQPB.
- (B) A comprehensive site plan detailing all construction, landscaping, structures, and all project related activities. The site plan shall include a vicinity map indicating north arrow, scale, site location, and other information necessary to easily locate the property.
- (C) A plan shall be prepared for each stage of construction.
- (D) The plan for each stage of construction shall contain a project construction schedule that includes estimated dates for the initiation and completion of all stages of construction.
- (E) A map detailing the topographic and/or hydrographic features of the project site.
- (F) The depth, slope, and area of the surface and/or subsurface as well as the types of soils, rocks, coral, and/or reef.
- (G) The original state of the project site as to plant life, animal life, and natural resources.
- (H) Whether any coral reef that may be affected by the earthmoving is alive or dead.
- (I) The proposed alteration of the project site.
- (J) The estimated amount of runoff from the project site.
- (K) The staging of earthmoving activities.
- (L) Temporary control measures and facilities for use during earthmoving activity.
- (M) Permanent control measures and facilities for long term protection.
- (N) Special provisions and control measures for periods of severe weather conditions.
- (O) A maintenance program for the control facilities including, but not limited to, disposal of materials removed from the control facilities or project site.

2401-1-14 Additional Requirements for Aquatic-Related Earthmoving

If the project involves an earthmoving activity in a lagoon, reef, river, or any body of water, the Erosion and Sedimentation Control Plan shall show existing aquatic plant life and animal life populations, minimum and maximum turbidities, and other water quality parameters that may be required by the Board. The baseline study shall be made by a person trained and experienced in aquatic biology and shall be completed prior to any earthmoving activity. Upon request, applicant shall submit to the Board the qualifications of the person trained and experienced in aquatic biology.

2401-1-15 Control Measures and Facilities

The erosion and sedimentation control measures and facilities set forth in these regulations shall be incorporated into all earthmoving activities, unless the designer of the Erosion and Sedimentation Control Plan demonstrates to the Board, and obtains the Board's written concurrence, that alteration of these measures and/or facilities, or inclusion of other measures and/or facilities, will prevent accelerated erosion, accelerated sedimentation, other water quality degradation, or other environmental degradation.

2401-1-16 Erosion and Sedimentation Control Measures

- (A) Limiting Exposed Area. All earthmoving activities shall be planned and undertaken in such a manner so as to minimize the area of disturbed surface and/or subsurface.
- (B) Containment of Underwater Sedimentation. All sedimentation resulting from underwater earthmoving activities shall be contained, confined, and restricted by the best available means in such a manner that turbidities will be kept to a minimum.

- (C) Velocity Control. All facilities for the conveyance of water around, through, or from the project site shall be designed to reduce the velocity of flow in the facilities to a speed that will not cause significant erosion. This velocity in no case shall exceed one and one-half (1.5) feet per second.
- (D) Stabilizing. Within a section or area of the project, all slopes, channels, ditches, or any disturbed area shall be stabilized as soon as possible after the final grading or final earthmoving has been completed.
- (E) Interim Stabilization. Where it is not possible to permanently stabilize a disturbed area immediately after the final earthmoving has been completed or where the activity stops for more than fourteen (14) days, interim stabilization measures shall be promptly implemented. No earthmoving activity shall be conducted during times of inclement weather unless directed by the Board to prevent further accelerated erosion and/or accelerated sedimentation.
- (F) Containment of Fills and Reclaimed Land within Bodies of Water, Wetlands, or Tidal Zones. Before filling or land development within a body of water, wetland, or tidal zone, adequate seawalls, breakwater facilities, and/or other controls deemed appropriate by the Board shall be constructed to safely contain the fill without failure and to prevent accelerated sedimentation.
- (G) Collection of Runoff. All runoff from a project site shall be collected and diverted to facilities for removal of sediment.
- (H) Solids Separation. Runoff from a project site shall not be discharged into the waters of the Republic of Palau without effective measures in place to prevent accelerated sedimentation.

2401-1-17 Erosion and Sedimentation Control Facilities

- (A) Sediment Retention Booms. Sediment retention booms must be used to restrict accelerated sedimentation around earthmoving or earth disturbing activity near or within bodies of water, wetlands, and/or tidal zones in all cases, except when a finding has been made, after actual demonstration, that no facilities are needed to prevent accelerated sedimentation. Approval of use of alternate facilities or a finding that no facilities are necessary shall be made in writing by EQPB.
- (B) Diversion Terrace.
 - (1) Diversion Terraces shall be constructed upslope of a project site to convey runoff around the project site.
 - (2) Diversion Terraces shall have sufficient capacity to convey such runoff without overflowing. For temporary diversion the channel associated with the terrace shall have, at a minimum, capacity to convey four (4) cubic feet per second per acre of land tributary to it.
 - (3) Diversion Terraces shall be grassed or lined with erosion resistant materials to prevent accelerated erosion of the Diversion Terrace and any associated channels.
 - (4) Outlet structures shall be designed to reduce the discharge velocity to that which will not cause accelerated erosion and shall be stabilized before use. This velocity shall not exceed three (3) feet per second.
- (C) Seawalls, Breakwater Facilities, and Retaining Walls. Seawalls, breakwater facilities, and/or retaining walls to contain fill or reclaimed land shall be:
 - (1) Sufficiently watertight to prevent accelerated sedimentation;
 - (2) Well constructed on a solid foundation;
 - (3) Constructed to a height and width approved by EQPB; and

- (4) Planned, designed, and constructed under the direction of a person trained and experienced in building seawalls and breakwater facilities. Upon request, qualifications of the person specified as trained and experienced in seawall and breakwater construction shall be submitted to the Board as part of the permit application.
- (D) Interceptor Channels.
- (1) Interceptor channels may be used within a project site to reduce the speed of flow of surface runoff and thus prevent accelerated erosion.
 - (2) Water collected by interceptor channels shall be conveyed to sedimentation basins or to other control measures approved by the Board.
 - (3) Outlets to vegetated areas shall be designed to reduce the discharge velocity to that which will not cause accelerated erosion.
- (E) Channels of Conveyance. All channels of conveyance shall be designed to reduce the speed of flow of surface runoff and, if necessary, shall be grassed or lined with erosion resistant materials so as to prevent accelerated erosion.
- (F) Solids Separation Facilities.
- (1) A basin for settling solids out of water shall be structurally sound and shall have sufficient capacity to hold the water that drains into the basin until the solids have settled out. A minimum capacity of six thousand (6000) cubic feet per acre of disturbed project area shall be the minimum capacity allowed.
 - (2) The basin shall be cleaned when the settling of solids has reduced the capacity of the basin by twenty-five percent (25%).
 - (3) Outlet structures shall be designed to allow only adequately settled water to be discharged at a rate that will not cause accelerated erosion or accelerated sedimentation.
- (G) Hydraulic Dredged Fills. The discharge from pumps or hydraulic dredges used to construct fills shall be sufficiently treated and retained with dikes, levees, seawalls, or other structures for a sufficient period of time so that accelerated sedimentation will not take place in the waters that receive the effluent. Transmission pipelines transporting fill material shall be maintained in a watertight condition at all times of times of excavation and fill operation.
- (H) Barges, Scows, or Vessels for Hauling Dredged Material. Barges, scows, and other vessels operating in waters of the Republic of Palau and used for hauling dredged material shall be sufficiently tight and secure so that accelerated sedimentation will not occur by reason of leaking or premature dumping.

2401-1-18 Restoration

- (A) Stabilization. Upon completion of the project, all areas that were disturbed by the project shall be stabilized so that accelerated erosion and/or accelerated sedimentation will be prevented.
- (B) Interim Control Measures. Any erosion and sedimentation control facilities required or necessary to protect areas from erosion during the stabilization period shall be maintained until stabilization is completed.
- (C) Final Measures. Upon completion of stabilization, all unnecessary or unusable control facilities shall be removed, the area shall be graded, and the soils shall be stabilized.
- (D) Project completion. The permittee shall notify EQPB upon completion of the project. EQPB shall conduct a final inspection to ensure all terms and conditions of the Earthmoving permit have been satisfied. If all clearing, grading, construction, and/or development were done pursuant to the

approved Erosion and Sedimentation Control Plan, the permittee may request that EQPB certify the project was completed in compliance with EQPB regulations.

- (E) Project Abandonment. The environmental restoration of a project site following the abandonment of the project shall be implemented through the use of the surety bonds, cash bonds, or other financial instruments as indicated in 2401-1-11(E).

DISCHARGE PROHIBITIONS

2401-1-19 Proper Disposal

All removed material shall be disposed of in a manner as mandated herein and in related EQPB regulations and other applicable regulations of the Republic of Palau including, but not limited to, Marine and Freshwater Quality Regulations and the terms and conditions of any permit as approved by the Board.

2401-1-20 Prohibited Discharges

Discharge of removed material, directly or indirectly, into wetlands, lagoons, reefs, streams, ocean, or other person's property is prohibited unless otherwise approved in writing by the Board.

INSPECTION

2401-1-21 Right of Entry

- (A) EQPB has the right to enter any property to inspect for unpermitted earthmoving activity and to conduct permit application inspections in accordance with 24 PNC § 161.
- (B) It shall be a condition of every Earthmoving permit that the EQPB has the right to enter the project site periodically to inspect for compliance with the approved Erosion and Sedimentation Control Plan and/or any other permit conditions. The inspection may be made with or without advance notice to the permittee. The permittee shall allow prompt access to the project site.
- (C) All EQPB inspections shall be made at reasonable times unless there is a reasonable belief that damage currently is or will be done to person, property, or the environment.
- (D) All EQPB inspections shall be documented in written form.

2401-1-22 Right to Inspect Records

EQPB has the right to inspect the records of applicants and permittees to ensure applicant has the financial ability to complete the proposed project within a reasonable amount of time, as detailed in Section 2401-1-11(D) of these regulations, or to ensure the proper Environmental Impact Fee has been assessed and paid in accordance with 24 PNC § 143(c) & (d), restated in Environmental Impact Statement Regulations § 2401-61-24.

ENFORCEMENT

2401-1-23 General Enforcement

Implementation, enforcement, and court actions pertaining to regulations contained herein shall be conducted according to the rights and procedures established in 24 PNC §§ 121 – 171, inclusive.

2401-1-24 Stop-Work Order; Order to Take Preventative Measures

- (A) The EQPB may issue a stop-work order, or cease and desist order, pursuant to Section 162 of Title 24 of the *Palau National Code* under the following circumstances:
- (1) In the event any person holding an Earthmoving permit issued pursuant to these regulations violates the terms and conditions of the permit or implements site development in such a manner as to adversely affect the health, welfare, or safety of persons, or is detrimental to the public welfare or environment; or
 - (2) In the event any person conducts any unpermitted earthmoving activities.
- (B) A stop-work order, or cease and desist order, shall be effective upon issuance.
- (C) In addition to issuing a stop-work order, or cease and desist order, the Board may also order the person conducting the earthmoving activities to implement immediate preventative measures in order to prevent further damage to the environment.

2401-1-25 Violation and Penalties

- (A) Any person violating the provisions of these regulations shall be subject to the penalties and enforcement actions set forth in the Environmental Quality Protection Act, Chapter 1 of Title 24 of the *Palau National Code*.
- (B) Any person who causes accelerated erosion and/or accelerated sedimentation or who otherwise engages in unpermitted earthmoving activities, purposeful or accidental, that result in damage to another person's property and/or the environment shall be considered to be in violation of these regulations and shall be subject to the penalties and enforcement actions set forth in the Environmental Quality Protection Act, Chapter 1 of Title 24 of the *Palau National Code*.

2401-1-26 Liability

The provisions of these regulations shall not be construed to relieve or alleviate the liability of any person for damages arising from performing or causing to be performed any activity associated with implementation of the Erosion and Sedimentation Control Plan.

RESPONSIBILITIES OF GOVERNMENT, DEVELOPMENT AND SUPPORT ENTITIES**2401-1-27 Notice to EQPB Required**

Any person who provides building permits, financial assistance, equipment, and/or materials to build, shall notify EQPB immediately upon receipt of an application for such building permit, financial assistance, equipment, materials, and/or other activity involving an earthmoving activity, by forwarding a copy of the application to the Board.

2401-1-28 Prohibition on Release of Support Without an Earthmoving Permit

No person shall release a building permit, funds, equipment, and/or materials to build to those engaged in earthmoving activities requiring an Earthmoving permit, until such time that the Earthmoving permit has been issued pursuant to these regulations, or a determination has been made by the Board that no permit is required.

MISCELLANEOUS PROVISIONS

2401-1-29 Severability

If any portion, Section, Subsection, sentence, clause, or phrase of these regulations is for any reason held invalid or unconstitutional by any court of competent jurisdiction, the remaining portions of these regulations, or the application of these regulations to other persons, circumstances, or property shall not be affected thereby.

2401-1-30 Repealer

The regulations contained herein shall replace the Republic of Palau Environmental Quality Protection Board Earthmoving Regulations (Effective May 26, 1996 as amended March 12, 1999) in effect in the Republic of Palau on the effective date of these regulations, to the extent that this repealer Section does not conflict with the applicability Section set forth in 2401-1-03 of these regulations.
