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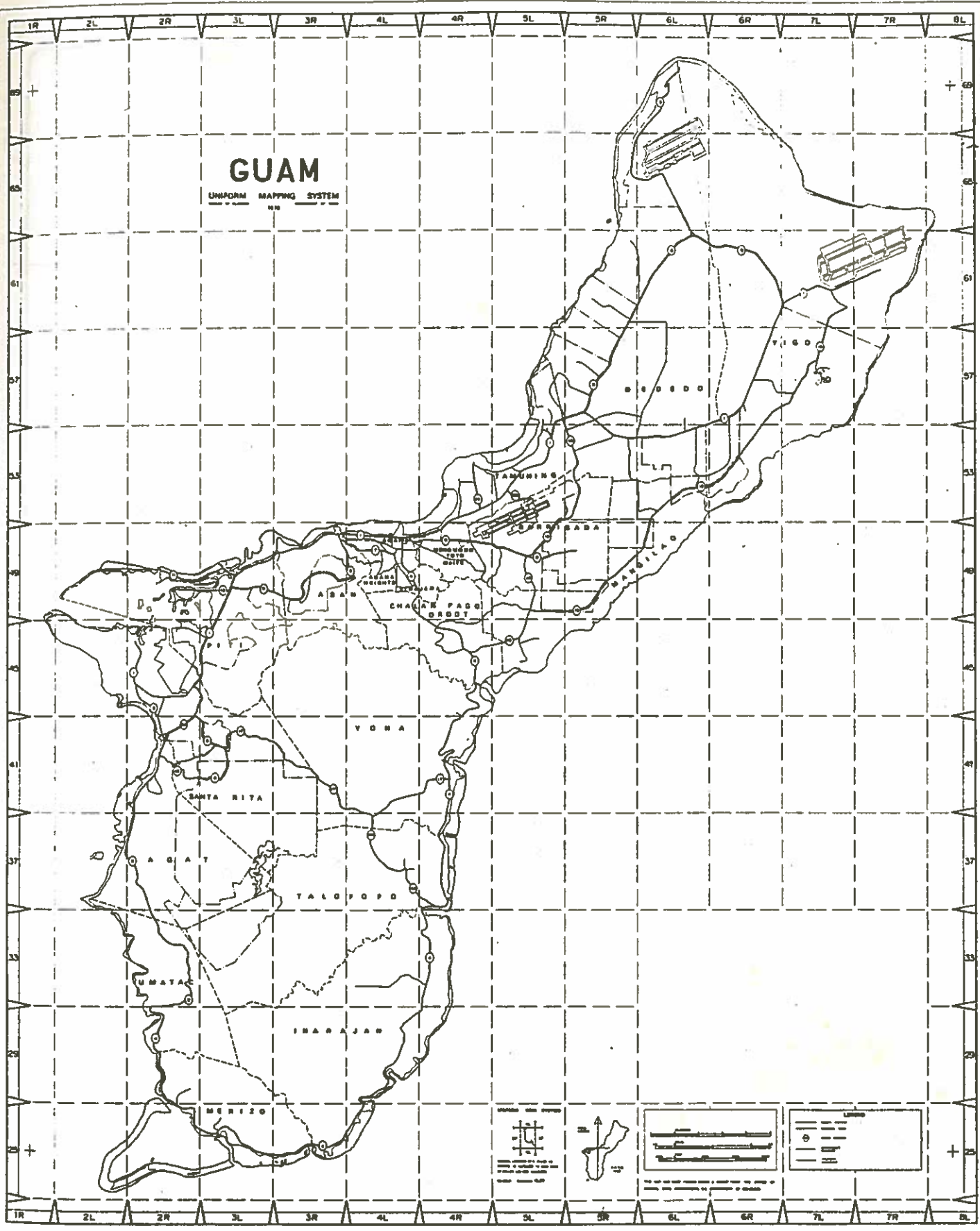
The land-use issues and problems facing Guam as a developing Territory are of critical importance. Coordination of interests in many areas requires the capability to define goals and policies, determine priorities and develop standards for the management of resources. Such is the intent of the Guam Coastal Management Program with the completion of this document.

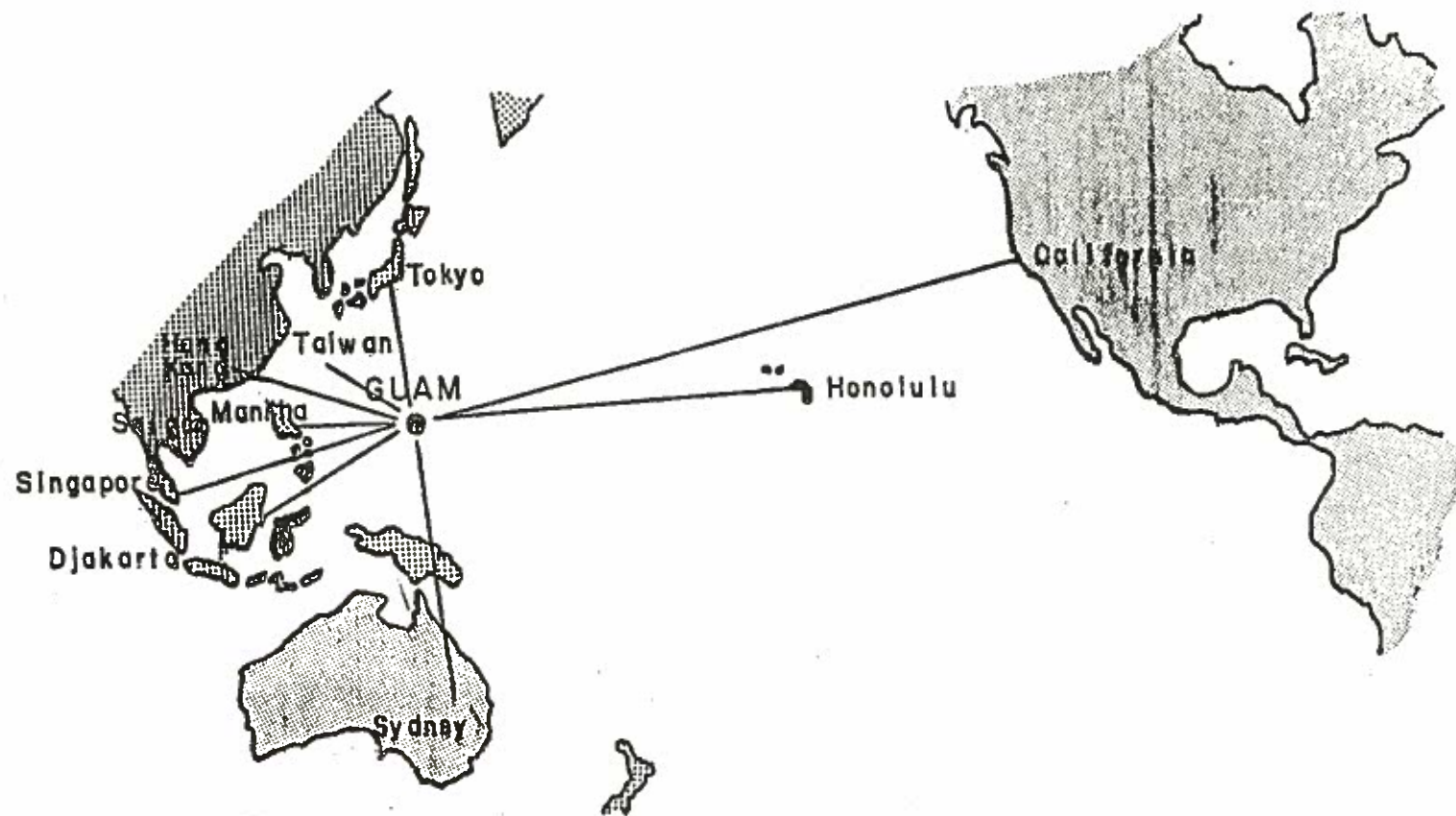
In the Comprehensive Development Plan for Guam, it has been recognized that there is a need to improve management capability in the allocation of fragile and finite resources. We must be assured that the activities of both governmental and private interests are directed towards a balanced course of development. The Guam Coastal Management Program, having prepared the Land-Use and Community Design Elements of the Comprehensive Development Plan, has developed this management plan as a further refinement towards the basic objective of responsible resource use.

The plan of action manifested in the Program's 306 Document will facilitate the utilization of Federal funds for land and water use management so that present and future generations may receive greater benefits from the gift of a tropical island environment.

Si Yuus Maase,

RICARDO J. BORDALLO





GUAM to	Manila	Honolulu	Calif.	Tokyo	Taiwan	Hong Kong	Sydney	Singapore	Djakarta
Distance in Miles	500	3000	5300	1500	1600	2100	3100	3300	4100
Flying Time in Hours	3	7	14	3	3	4	11	4	8

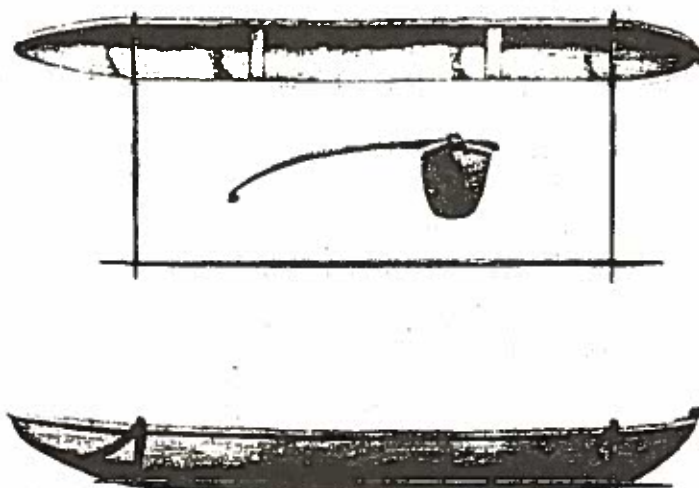
Fig. - Location of Guam, Distance and Flying Time to Major Regional Centers.

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GLOSSARY OF ABBREVIATIONS

FOUND IN TEXT

AAFB	Andersen Air Force Base
AICUZ	Air Installations Compatible Use Zone
APC	Area(s) of Particular Concern
BP, BOP	Bureau of Planning
CPC	Central Planning Council
CZM	Coastal Zone Management
CZMA	Coastal Zone Management Act of 1972, as amended
CDP	Comprehensive Development Plan
CEIP	Coastal Energy Impact Program
CHP	Comprehensive Highway Plan
COE	U.S. Army Corps of Engineers
DA, DAq	Department of Agriculture
DLM	Department of Land Management
DR	Department of Parks and Recreation
DPW	Department of Public Works
EDA	U.S. Economic Development Administration
GEPA	Guam Environmental Protection Agency
GORCO	Guam Oil and Refining Corporation
GHURA	Guam Housing and Urban Renewal Authority
GOVGUAM	Government of Guam
HUD	U.S. Department of Housing and Urban Development
LUC	Land Use Commission (proposed renaming of TPC)
MARINE LAB	University of Guam Marine Laboratory
NAS	Naval Air Station
NCS	Naval Communications Station
NOAA	National Oceanic and Atmospheric Administration
OCZM	Office of Coastal Zone Management
PUD	Planned Unit Development
PUAG	Public Utilities Agency of Guam
SDRC	Subdivision and Development Review Committee
TPC	Territorial Planning Commission
UOG	University of Guam
WRRRC	Water Resources Research Center

CHAPTER I - SUMMARY

A. BACKGROUND

In passing the Coastal Zone Management Act (16 U.S.C. 1451-1464) of 1972, the Congress declared in Section 303 of the Act, that it is our Nation's policy:

- " (a) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations,
- (b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development,
- (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title, and
- (d) to encourage the participation of the public, of Federal, state, and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems."

A major conclusion of the federal commission on Marine Science, Engineering and Resources, whose report Our Nation and the Sea prompted passage of the CZM Act, was that:

" the primary problem in the coastal zone was a management problem with all the attendant problems that proper management implies. It is true that the Federal, State, and local governments share the responsibility to develop and manage the coastal zone. In reviewing the situation, we concluded that effective management to date has been thwarted by the variety of Government jurisdictions involved at all levels of Government, the low priority afforded to marine matters by State governments, the diffusion of responsibility among State agencies and the failure of State agencies to develop and implement long range plans."

Recognizing the critical nature of these coastal management problems and the urgency of implementing the above policies, Congress made available, through the Coastal Zone Management Act (CZMA), federal funds for preparation and implementation of individual state coastal zone management programs.

Rules and regulations promulgated by the CZM Act's administering agency, the Federal Office of Coastal Zone Management within the Department of Commerce's National Oceanic and Atmospheric Administration, outline specific requirements for development and approval of such management programs.

305, 306

Refers to Sections 305 and 306 of the Coastal Zone Management Act of 1972 administered by the U.S. Department of Commerce

305 - Planning and Development Phase

306 - Implementation Phase

Guam is presently under a 305 grant and is attempting through submittal of this document, to qualify for 306 funding.

201, 208

Refers to Sections 201 and 208 of the Federal Water Pollution Control Act Amendments of 1972

201 - Construction of Municipal Sewage Treatment Plants

208 - Areawide Wastewater Management Plan

Under Section 305 of the Coastal Zone Management Act, states are allowed up to four (4) years for development of their respective management programs. Upon completing development and achieving federal approval of the coastal programs, states become eligible for further funding under Section 306 of the Act for actual program implementation. This document, outlining Guam's Coastal Management Program in accordance with Interim Final federal CZM Program Approval Regulations (15 CFR Part 923), is submitted with the intent of achieving Section 306 funding approval by October 1, 1978.

B. COASTAL MANAGEMENT AND LAND USE PLANNING

Probably the most significant aspect of Guam's Coastal Management Program, distinguishing it from the thirty-three (33) other such state or territorial programs, is its scope. The CZMA and accompanying regulations provide for the designation by the State or Territory of the inland boundaries of the coastal lands to be managed under the auspices of the coastal program. Rather than designating a distinct "Coastal Zone," through delineation of an inland boundary by distance (e.g., 1000 yards in California) or by geographical features (up to 45 miles inland in Oregon), the entire island, including the surrounding sea out to 3 miles, was included under jurisdiction of the Coastal Zone Management program. (The reasoning behind this program planning decision is detailed in Section IV-A of this program.) The word "Zone" is deleted, therefore, in referring to Guam's Coastal Management Program, avoiding suggestion of applicability to a narrower shoreline strip or fringe area.

Because the entire island has been designated a "coastal zone" in the context of the CZM Act, Guam's Coastal Management Program applies islandwide. Therefore, all of the Territory's land and sea areas and all of its land-use-related planning and regulatory agencies, programs and laws fall within the concern of this program. The effect of this program on federally owned lands, which constitute almost one-third of the island's land area, and on activities occurring on Federal lands is discussed later under the federal consistency section.

On January 10, 1975, the Twelfth Guam Legislature enacted Public Law 12-200 which created a Central Planning Council, with the Bureau of Planning as staff to the Council, and required development of a Comprehensive Development Plan. Initial objectives identified within this comprehensive planning legislation are:

- " (a) to determine the extent that our natural resources limit urban and rural development.

- (b) to plan for the preservation of the natural charm and character of Guam within the framework of a growing population and modern technology.
- (c) to establish generalized areas of use within an urban, rural, agriculture, conservation, and resort context.
- (d) to provide a development pattern that enhances the comfort, convenience and economic welfare of the individual.
- (d) to prepare land capability criteria as a basis for real property evaluation that tends to equalize the divergent qualities of location.
- (f) to reappraise the total land tenure of the territory and provide guidelines for relocation of inefficient or inappropriate major uses.
- (g) to plan for the development and extension of the infrastructure and transportation facilities.
- (h) to plan for a high quality environment essentially free from pollution and with adequate and well-kept open space throughout our varying activity centers.
- (i) to prepare criteria of substandard neighborhoods and identify areas that meet criteria levels.
- (j) to recommend creative legislation regulating our use of land for the protection of future generations."

This Comprehensive Development Plan, scheduled for completion by July, 1978, is mandated by the legislation to include a land use element which:

"designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, conservation, and other categories of public and private uses of land, which include islands reef and lagoon areas and the sea within the territorial waters and also includes a statement of the standards of population density and building intensity for the various districts and other areas covered by the plan, and regulatory devices governing the use, development and subdivision of land."

Because development of this land use plan required addressing many of the problems and issues of concern in developing a coastal management program, the Bureau of Planning was designated by the Governor to administer the Coastal Zone Management Program. The technical support data, policies and recommended programs, laws and regulations in both the island's Land Use Plan and Coastal Management Program are closely related. Though their overall long-range goals and objectives are similar, each serves differing immediate purposes, affecting the comprehensiveness and emphasis with which common issues are addressed.

While the Coastal Management Program should be considered as part, albeit a major one, of the island's land use planning efforts, the Land Use Plan should be viewed as playing an equally significant role in implementation of the Coastal Management 306 Program.

C. GOALS AND OBJECTIVES OF THE COASTAL MANAGEMENT PROGRAM

Coastal Management Goals

The goals of the Territory of Guam, through the coastal management program are to:

1. Improve the quality of life by improving the quality of the coastal and marine environment.
2. Promote the orderly development of commercial and industrial facilities, as well as the residential and recreation areas of Guam.
3. Promote the orderly and responsible development of the island's resources to maximize benefits derived from these resources.
4. Encourage the improved understanding and appreciation of Guam's coastal resources.
5. Provide a mechanism to coordinate various governmental agencies' interest in and programs concerning coastal resources.
6. Protect the fragile relationship that exists between land use and adjacent coastal waters.

Coastal Management Program Objectives

1. Coordination, Goal Orientation, Administration

Establish at the program's outset the basic foundations of ongoing coordinative and administrative activities.

2. Boundaries of the Coastal Zone

Identify study area boundaries relevant to coastal management programming.

3. Permissible Uses

- 1). Identify principle problems and issues relative to land and water use of coastal zone management study areas.
- 2) Collect and organize environmental, physical and socio-economic data relative to uses of coastal areas.
- 3) Develop quantitative and qualitative indicators by which the environmental and socio-economic impact of various activities can be evaluated.

4. Areas of Particular Concern

- 1) Identify and designate specific areas which, by nature of unique, distinct, or special values or pressures of immediate development, should receive special management attention; and

- 2) Develop management policies for designated Areas of Particular Concern (APC).
- 3) Develop policies and developmental guidelines governing the priorities of uses in areas of particular concern.

5. Means of Exerting State Control Over Land and Water Uses

Examine existing controls over land and water use and recommend alternatives.

6. Organizational Structure to Implement the Management Program

Establish the necessary structure within the Government of Guam to implement the proposed management program through specified agencies with the authority and power to administer land and water use regulations.

D. MAJOR ELEMENTS OF THE MANAGEMENT PROGRAM

Guam began development of its Coastal Management Program in late 1975.

Since that time, the major elements of Guam's Coastal Management evolved from essentially three bases:

- 1) utilization of existing authorities and mechanisms,
- 2) amendment or modification of existing authorities and mechanisms, and
- 3) development of new authorities and mechanisms.

In the absence of local government in the Territory, Guam's management program is characterized by direct state administration, utilizing both networking and comprehensive legislation as outlined under Section 923.42(e) of the CZMA Section 306 Program Approval Regulations. While it is true that within certain areas, such as Conservation Districts and Areas of Particular Concern (APC), most individual developments will be subject to some review procedure, a case-by-case approach, as outlined in Section 923.43(f) of the 306 Regulations, is not the dominant feature of the management program.

Major elements of Guam's Coastal Management Program drawn from existing authorities include:

- 1) the recently completed Land Use Plan and Community Design Plan,
- 2) the Seashore Reserve Plan, to be completed upon passage of legislation amending the Seashore Reserve Area,
- 3) the Territorial Beach Act, Chapter V-B, Title XIV, of the Government Code of Guam (GCG),
- 4) the Comprehensive Planning enabling legislation, Chapter II, Title LXV, GCG (Public Law 12-200),
- 5) the Zoning Law, Title XVIII, GCG,
- 6) the Guam Environmental Protection Agency's enabling legislation, Title LXI, GCG.

Existing authorities also include certain laws of more narrow scope, such as those pertaining to coral collection, hunting, fishing, and Army Corps of Engineers' permits, as well as historical site, subdivision and public health laws.

Existing laws being amended as part of the Coastal Management Program include:

- 1) the Zoning Law - to revise the permitted and conditional use listings and yard and area regulations (Bill No. 234),
- 2) the Comprehensive Planning enabling legislation to revise the membership of the Central Planning Council (Bill No. 377),
- 3) the Seashore Protection Act - to revise the boundary definition according to natural geographic features.

New legislation (Bill No. 233) submitted by the Bureau of Planning as part of its Coastal Management Program establishes:

- 1) a land use districting system, permitting certain zones within urban, rural and agriculture districts and guiding Conservation district development through performance standards, and
- 2) procedures for designating areas of particular concern (APC), unique areas requiring special management programs or attention

Upon passage of Bill No. 233, Guam's Coastal Management Program will consist of six primary elements:

- 1) Land Use and Community Design Plans
- 2) Seashore Protection Act
- 3) Territorial Beach Act
- 4) Zoning Law
- 5) Land Use District and APC legislation
- 6) Guam Environmental Protection Agency Act

The full complement of major authorities for the program are cited in the accompanying Table 1, and are explained in detail in Chapter IV of this document.

Funds received and administered by the Bureau of Planning, through its Coastal Management 306 Program will be used in implementing and enforcing the above laws and plans as well developing additional management programs addressing certain areas of particular concern and critical areas of administration.

Because of Guam's limited natural resources, and its dependence on them for both subsistence and major portions of its economy (tourism), wise resources management is essential. In the relatively small area in which we live, there is little room for error. The island's size demands a comprehensive and thorough management program.

MAJOR TERRITORIAL COASTAL MANAGEMENT PROGRAM AUTHORITIES

<u>Commission/Agency and Authority</u>	<u>Citation: GCG (unless otherwise noted)</u>
<u>Central Planning Council - Bureau of Planning</u>	
Comprehensive Planning Enabling Legislation	Title LXV, Chapter III
Land Use Districts	Bill No. 233, Sections 68003 - 68011
Areas of Particular Concern	Bill No. 233, Sections 68012 - 68015
<u>Territorial Planning Commission - Department of Land Management</u>	
Zoning Law	Title XVII
Subdivision Law	Title XIX
Territorial Seashore Protection Act	Title XIV, Chapter V-A
Subdivision and Development Review Committee	Executive Order 75-2
Natural Resources Board	Sections 13251-3
Government Land Sale and Lease	Title XIII, Chapter VI, VII, XI
Public Rights Provisions	Title XIV, Chapter XII-B
Submerged Land Permits	U.S. Public Law 93-435
<u>Department of Parks and Recreation</u>	
Parks and Recreation	Title XXVII, Chapter I
Historic Objects and Sites	Title XIV, Chapter XIII
Territorial Beach Areas Act	Title XIV, Chapter V-B
<u>Guam Environmental Protection Agency</u>	
Water Resources Conservation Act	Title LXI, Chapter II
Water Pollution Control Act	Title LXI, Chapter III
Toilet Facilities and Sewage Disposal	Title LXI, Chapter IV
Air Pollution Control Act	Title LXI, Chapter V
Guam Pesticides Act	Title LXI, Chapter VI
Solid Waste Management and Litter Control	Title LXI, Chapter VIII
Guam Safe Drinking Water Act	Title LXI, Chapter XII
Soil Erosion and Sediment Control Regs.	Promulgated 12/5/75
<u>Department of Agriculture</u>	
Guam and Fish Laws	Title XIII, Chapter IV, Art. 1
Wildlife Conservation	Title XII, Chapter IV, Art. III
Live Coral and Fishing Nets	Title XIII, Chapter IV, Art. V
Endangered Species Act	Section 12325
Guam Land Conservation Act	Title XIV, Chapter VII
<u>Government of Guam</u>	
Draft Constitution	Adopted 12/15/77

E. GUAM COASTAL MANAGEMENT POLICIES

A. Governmental Processes Policy

More effective administration of natural resource related laws, programs, and policies shall be achieved through:

- . revision of unclear and outdated laws and regulations,
- . improved coordination among local agencies,
- . improved coordination between territorial and federal agencies,
- . educational and training programs for local government personnel, and refinement of supporting technical data.

B. Development Policies

1. Shore Area Development

Only those uses shall be located within the Seashore Reserve which: (1) enhance, are compatible with or do not generally detract from the surrounding coastal area's aesthetic and environmental quality and beach accessibility; or (2) can demonstrate dependence on such a location and the lack of feasible alternative sites.

2. Urban Development

Uses permitted only within Commercial, Multi-Family, Industrial, and Resort-Hotel zones; and uses requiring high levels of support facilities shall be concentrated within urban districts as outlined on the Land-Use Districting Map.

3. Rural Development

Rural districts shall be designated in which only low density residential and agricultural uses will be acceptable. Minimum lot size for these uses shall be one-half acre until adequate infrastructure, including functional sewerage, is provided.

4. Major Facility Siting

In evaluating the consistency of proposed major facilities with the goals, policies, and standards of the Comprehensive Development and Coastal Management Plans, the Territory shall recognize the national interest in the siting of such facilities including those associated with electric power production and transmission, petroleum refining and transmission, port and air installations, solid waste disposal, sewage treatment, and major reservoir sites.

5. Hazardous Areas

Identified hazardous lands including floodplains, erosion-prone areas, air installation crash and sound zones and major fault lines shall be developed only to the extent that such development does not pose unreasonable risks to the health, safety, or welfare of the people of Guam, and complies with land-use regulations.

6. Housing

The government shall encourage efficient design of residential areas, restrict such development in areas highly susceptible to natural and manmade hazards, and recognize the limitations of the island's resources to support historical patterns of residential development.

7. Transportation

The Territory shall develop an efficient and safe transportation system while limiting adverse environmental impacts on primary aquifers, beaches, estuaries, and other coastal resources.

8. Erosion and Siltation

Development shall be limited in areas of 15% or greater slope by requiring strict compliance with erosion, sedimentation, and land-use district guidelines, as well as other related land-use standards for such areas.

C. Resource Policies

1. Conservation of Natural Resources - Overall Policy

The value of Guam's natural resources as recreational areas, critical marine and wildlife habitats, the major source of drinking water, and the foundation of the island's economy, shall be protected through policies and programs affecting such resources.

2. Air Quality

All activities and uses shall comply with all local air pollution regulations and all appropriate federal air quality standards in order to ensure the maintenance of Guam's relatively high air quality.

3. Water Quality

Safe drinking water shall be assured and aquatic recreation sites shall be protected through the regulation of uses and discharges that pose a pollution threat to Guam's waters, particularly in estuarine, reef and aquifer areas.

4. Fragile Areas

Development in the following types of fragile areas shall be regulated to protect their unique character: historic and archaeologic sites, wildlife habitats, pristine marine and terrestrial communities, limestone forests, and mangrove stands and other wetlands.

5. Living Marine Resources

All living resources within the territorial waters of Guam, particularly corals and fish, shall be protected from over-harvesting and, in the case of marine mammals, from any taking whatsoever.

6. Visual Quality

Preservation and enhancement of, and respect for the island's scenic resources shall be encouraged through increased enforcement of and compliance with sign, litter, zoning, subdivision, building and related land-use laws; visually objectionable uses shall be located to the maximum extent practicable, so as not to degrade significantly views from scenic overlooks, highways, and trails.

7. Recreational Areas

The Government of Guam shall encourage development of varied types of recreation facilities located and maintained so as to be compatible with the surrounding environment and land uses; adequately serve community centers and urban areas, and protect beaches and such passive recreational areas as wildlife and marine conservation areas, scenic overlooks, parks, and historic sites.

8. Public Access

The public's right of unrestricted access shall be ensured to all non-federally owned beach areas and all Territorial recreation areas, parks, scenic overlooks, designated conservation areas and other public lands; and agreements shall be encouraged with the owners of private and federal property for the provision of reasonable access to, and use of, resources of public nature located on such land.

9. Agricultural Lands

Critical agricultural lands shall be preserved and maintained for agricultural use.

CHAPTER II-INSTITUTIONAL AND RESOURCE SETTING

II-A. MAJOR NATURAL RESOURCES AND HUMAN ACTIVITIES

The purpose of this section is to briefly describe the unique physical setting and major natural resources of Guam including general human settlement patterns.

1. PHYSICAL SETTING

General

Guam is the southernmost and largest island in the Marianas Chain, an archipelago in the Southwest Pacific. It lies 13 degrees 28'29"N and 144 degrees 44'55"E at Agana, the capital city on the central western coast. The island is approximately 30 miles in length with a northern width of 8 1/2 miles and a maximum southern width of 11 1/2 miles. Northern and southern land areas taper at the central waist to a width of 4 miles. Excluding reef areas, the land area is 212 square miles or 550 square kilometers. The axis of the island is in a northeast-southeast direction. Guam is generally classified as a high island with 12 small islands along the reef. The largest offshore island is Cocos Island, a raised portion of the barrier reef encircling an atoll-like lagoon.

Climate

Generally, the climate on Guam is warm and humid regardless of the time of year. The relative humidity commonly exceeds 84% at night, all year long, and the average humidity is at least 66% every month. The daytime temperatures are commonly between 83 and 88 degrees with night temperatures falling to the mid-seventies during the coolest part of the evening. The two distinct climatic seasons on Guam are the wet and dry season. The dry season is generally from January to May and the wet season from July to November. December and June are considered transitional months. The mean annual rainfall ranges from approximately 80" along the coast to 95" for the higher mountainous areas; 20-24% falls in the dry season and 63-66% in the wet season.

Seismic Conditions

Guam periodically experiences major storms or typhoons, with winds greater than 65 knots. The likelihood of typhoons is greatest during July through September; however, they may occur during any

month. On May 21, 1976, for example, Typhoon Pamela devastated the island with recorded sustained winds of 115 mph and recorded gusts to 159 mph.

Located 80 miles northwest of the Marianas Trench, Guam is subject to earthquakes and seismic sea waves at presently unpredictable frequency and intensity. Devastating sea waves have been absent during recorded history. Numerous earthquakes and tremors have occurred with the most damaging quake being recorded in 1902. Guam is structurally divided into six blocks by seismic fault zones that are defined by distinct divisions in the land surface.

2. MAJOR NATURAL RESOURCES AND SETTLEMENT PATTERNS BY SECTOR

Northern Guam

The northern section of Guam is geographically characterized by a raised limestone plateau with a maximum elevation of 600 feet which gently slopes downward in a southwestern trend to less than 100 feet in the central mid-section of the island. The northern limestone is composed of the consolidated remains of reef coral and sediments.

The northern limestone terraces and cliffs represent an ancient barrier reef, with the inland limestone terrain comprised of the sedimentary remains of the lagoon sediments. The coastal limestone is extremely permeable; thus rainfall quickly soaks into the ground and recharges three main aquifer areas. A lens of freshwater floats upon saltwater and provides the bulk of the island's freshwater supply.

A very thin soil layer covers most of the northern limestone and hosts forest vegetation known as the limestone forest. The limestone forest is comprised of large trees that form a canopy for understory shrubs, herbs, epiphytes, and lianas. Many of the plants grow from bare limestone. Many of the areas of limestone forest have been cleared by wartime efforts and postwar urban and military developments. The remaining areas are concentrated along coastal slopes and represent the critical habitat for many of Guam's endangered plants and animals.

The northern limestone plateau is interrupted by volcanic upthrusts at Barrigada Hill and Mt. Santa Rosa. The volcanic basalt is exposed at Mt. Santa Rosa and has resulted in the buildup of lateritic clay soil along an adjacent inland area. This region represents the only major sector of agriculturally developable land in the northern half of the island.

Because of the relative flatness of the terrain, readily available water, extensive limestone deposits, and existence of major infrastructure developed during the war and superb beaches, northern Guam is the focal point for the location of population, manufacturing and light industry, mineral extraction, and tourist industry. Over 45% of the island's population, as well as the vast majority of public institutions, manufacturing enterprises and resort-hotel facilities are concentrated in this sector. Major federal facilities include the Naval Air Station (Guam International Air Terminal), Andersen Air Force Base, Naval Communication Station, Federal Aviation Administration, and Northwest Field.

Central Guam

Geologically, the central waist of Guam, from Agana Bay to Pago Bay, represents a transitional zone between the northern limestone and southern volcanic formations. The limestone in this area is argillaceous or yellowish in color from the volcanic sediments that mixed with the white reef coral during the later development of the northern reef adjacent to the older southern volcanics. The relief features are characterized by sloping hills that are intersected by low-lying basins that are periodically flooded during the wet season. They appear as grassy flats and are important for recharge of the central aquifer. The central aquifer is the smallest lens, yet least affected by saltwater intrusion. It reaches the surface at Agana Springs and disperses water over a floodplain or wetland wildlife habitat, known as Agana Swamp, which eventually flows into Agana Bay via Agana River--the northernmost river on Guam.

Despite the small land area, geologic characteristics and unique ecology of Central Guam, the area is the location of the major concentration of urban development on the island. Approximately

30% of the island's population resides in this small land area.

Commercial, industrial and residential development has expanded from Agana, the major trade center and seat of both governmental and religious power structures.

Southern Guam

The southern portion of the island is geologically characterized by two distinct volcanic formations that developed in different geologic eras. The Alutom formation or mountainous ridge adjacent to Central Guam is the oldest formation. The highest peak is Mt. Alutom at 1,076 feet. The southern range, known as the Umatac formation, is characterized by high peaks or a cuetal ridge that is steep on the seaward side and gently slopes inland toward the interior basin where the two formations merge. The highest peak is Mt. Manglo at 1,250 feet. The rugged upland surfaces of volcanic areas are weathered. Exposed volcanic rock and conspicuous erosion scars are present. Major land areas, however, are covered with savannah grasslands that have adapted to the dry and nutrient deficient clay soils of the upper slopes. Water quickly drains from sloped surfaces and forms a surface drainage pattern that comprises the freshwater resources of Southern Guam. A relatively small amount of rainfall soaks into the underlying rock strata. More than 40 rivers and streams form a surface drainage pattern that dissects the volcanic regions. These rivers flow into the sea at coastal embayments where floodplains and wetlands typify the estuarine areas. A heavy growth of tropical vegetation borders the inland areas of rivers and represents a plant community known as the ravine forest. Sharp divisions between the savannah grasslands and ravine forest provide particularly aesthetic contrasts in Southern Guam. The southern uplands are some of the only expanses of unspoiled terrain on Guam.

Only 24% of the island's population resides in southern communities because of terrain restrictions. Village centers are most often along coastal lowlands, with a traditional lifestyle and architecture producing a sharp contrast with northern and central urban development patterns. The reliance on farming and fishing for subsistence is more persistent in the south. Topographic, geologic,

and ecological conditions have caused the deposition of fertile soil into southern interior basins. Large tracts of prime agricultural lands lie between the southern communities of Inarajan and Talofofo. Other portions of the interior basins, where the two major volcanic formations meet, however, are characterized by eroded reef coral that forms a jagged Karst topography. These areas are concentrated on federally restricted property near the Fena Reservoir, a man-made reservoir that supplies 10% of the island's water consumption.

Shoreline Features (See Atlas of the Beaches of Guam for further details)

Being a small island with human settlement concentrated along coastal areas, the dynamic features and processes that occur at the shoreline or ocean-land interface are among the most important natural resources on Guam. Much of Guam is surrounded by coral reef, a diversified ecological community that is represented by different types in different locations. The northern coastline is generally characterized by an immediate reef front at the base of steep cliffs. However, as sandy beaches occur, the presence of a reef flat becomes more prevalent along central and southern shores. The reef flat is a level base of limestone that consists of the remains of ancient reef coral that has built seaward to the present offshore reef front of living coral. The reef front suppresses the force of all except the largest storm waves and contributes to the buildup of sand along the beaches. As a transition between the reef and beach, the reef flat area is sometimes exposed during low tides; however, it represents an important shelter for many small fish, shellfish, crustaceans, algae, and other forms of sea life. Two barrier reefs, which encircle lagoon areas, are represented on Guam. Cocos Island, at the southern extreme is a relatively pristine area that is important for both schools of juvenile deepwater fish and the species associated with the coral community. The existing and potential use of the area is recreational.

Apra Harbor, another barrier reef located along the central-west coast, still represents important underwater resources. The outward appearance, however, is vastly different from that at Cocos Island. The offshore Cabras Island and Luminao Reef have been linked and covered with surface development to form the Glass Breakwater. Apra

Harbor is the only deepwater port on the island. As the major port area, it serves both the military and civilian communities. Being a strategic location and situated on major trade routes, the harbor is the focal point of most sea traffic and transshipment in the Western Pacific. Industrial development in this area increases yearly to meet island-wide demands for imported supplies and energy development.

Natural shoreline configuration is generally represented by rocky coastline, sandy beaches, mangrove mudflats and river estuaries. The rocky coastline comprises 62% of Guam's shoreline. It is characterized by steep, uplifted limestone terraces and cliffs with a lower bench terrace covered with a growth of marine organisms. Many cliffline areas are characterized by a waterline niche that is cut by algae, limpets, and chitons.

The sandy beaches of Guam comprise a significant portion of the shoreline, 31%. They are sloping landforms composed of unconsolidated sand, gravel, broken shells, coral, and foraminifera.

They extend landward from the water's edge to a distinct break in the landform or to a point where terrestrial vegetation covers the substrate. They extend seaward as far as the sandy bottom is appreciably affected by tide, currents, and wave movements.

Mangrove mudflats are represented in only two locations on Guam. An extensive stand of mangrove species has been increasing in size along the inner shore of Apra Harbor. The other area of mangrove shoreline is along the extreme southern coastline between Merizo and Inarajan, along the inner shoreline of Cocos Lagoon. They assist in natural shoreline stabilization and represent an important ecological community.

Guam shoreline is interrupted by numerous bays, most of which are associated with estuaries or river mouths. The surrounding river valleys and immediate edge of the river are wetland communities. A diversity of aquatic plant and animal species rely on the specific environment of estuarine areas. These areas are potentially valuable for aquaculture development. Beach areas at river mouths are usually formed by a combination of reef material and riverine substances

that originate from inland areas. Thus beaches at embayments have a higher content of soil and organic material than the white sandy beaches.

II-B. INSTITUTIONAL FRAMEWORK

II-B-1. Population

The changing population pattern of Guam are closely related to Guam's economic situation. These factors of population and economic conditions largely shape both the character of and resource demands placed on particular areas on Guam. Existing population data are unprecise, but are the only base upon which to make projections. These figures will continue to be revised until a sufficiently complete data base is established with which to make more definite projections. These figures will have to be revised further at the time of a census. Present data provide ranges of projections which vary significantly. Table 1 summarizes several of the population projections that are available.

The lack of widely accepted population-growth rates insland-wide precludes meaningful application of these rates to municipalities or neighborhoods. Planners at the Guam Environmental Protection Agency, Public Utility Agency of Guam, and the Department of Public Works, as well as the Bureau of Planning, encountered difficulties especially in wastewater infrastructure planning, when growth rates were applied to specific areas; for example, pipe sizing was indicated that was too large for the existing population.

Table 2. Selection of Population Projections, 1970-2000*

	1970	1975	1980	1990	2000
1. <u>Chung (D)</u> (no military)	85,380 (63,380)	105,400 (83,400)	126,000 (104,000)	165,400 (143,400)	205,660 (183,660)
2. <u>QB (B)</u> (no military)	89,890 (67,890)	106,310 (84,310)	126,956 (104,956)	179,352 (157,352)	236,000 (214,000)
3. <u>Chung (C)</u> (no military)	85,380 (63,380)	107,400 (85,400)	132,200 (110,200)	198,000 (176,000)	268,000 (246,660)
4. <u>BP L-USE</u> (no military)		106,700 (84,700)			188,500 (167,500)

*Note: Parentheses () indicate that the constant 22,000 military population is not included.

Source: Department of Commerce, Bureau of Planning, Government of Guam.

Figure 1 Ethnic Composition of the Civilian Population of Guam, September 1975.

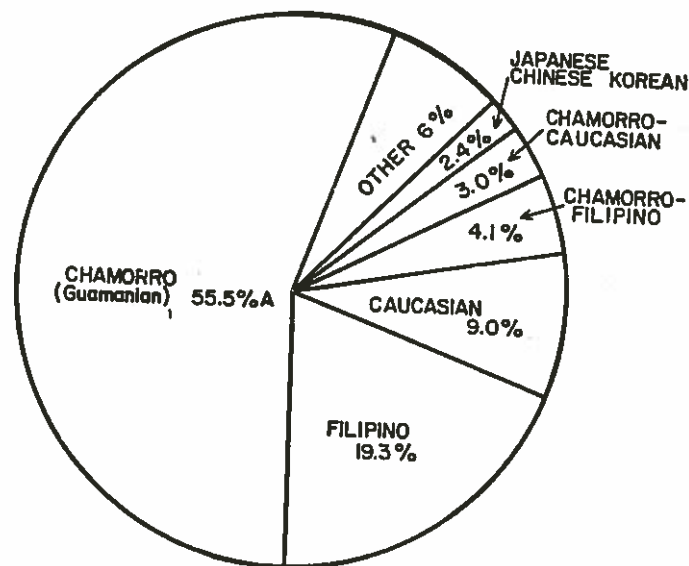
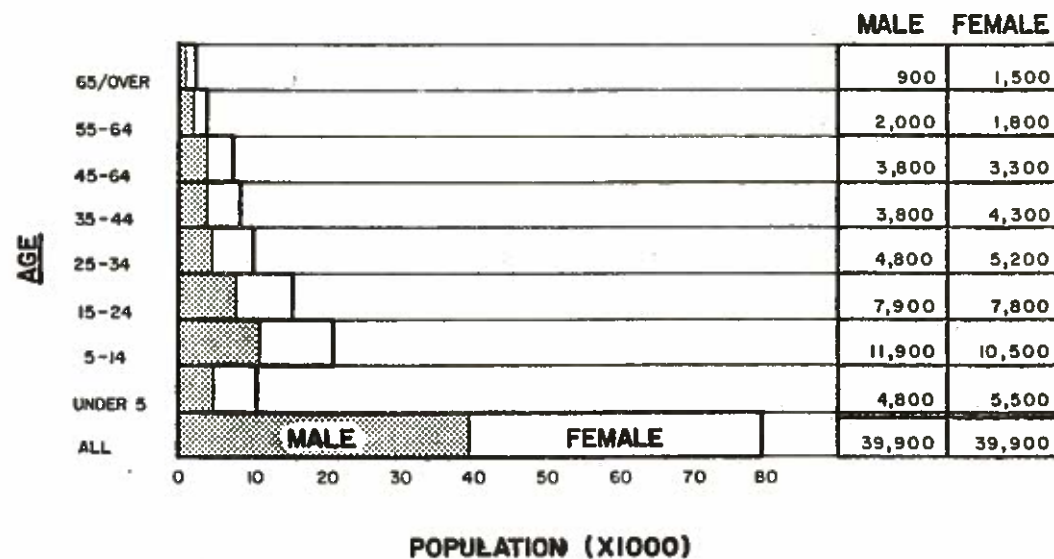


Figure 2 Sex Composition of Population by Age Group



Source: Bureau of Labor Statistics

2. GOVERNMENTAL BACKGROUND

As a major facet of the cultural change that has occurred throughout Guam's varied heritage, the political setting has always been a major factor influencing the patterns of resource use. The multiple chiefdoms of the pre-contact Chamorro exhibited an upper class of magas ruling the lower classes of a flourishing population. After the period of Spanish conquest, a colonial era of government found the remaining population and subsequent generations within the realm of a nation-state form of centralized political control. A long succession of Spanish governors dominated island residents who were treated as a peasant class of a colonial possession of the mother country. This form of government was known as the colonial encomiendero system. The major beneficiaries of resources were the holders of colonial concessions (government officials) and the mother country. The major period of cultural occurred simultaneously with the Spanish colonial domination.

The United States jurisdiction over Guam formally began in 1899 as a result of the Spanish-American War. This jurisdiction was manifested in a form of government exercised by the Department of the Navy. By the Treaty of Paris, Guam became a possession and Capt. Richard Leary became the first naval governor. A succession of naval governors mandated reforms with relative autonomy, and had a firm control over the island populace.

It was not until 1917, under Governor Smith, that democratic principles began to appear and the island's residents provided with a mechanism for a voice in governmental policy. The First Guam Congress convened on February 3, 1917 and served as an advisory body to the governor. Without the authority to enact laws, however, their influence was minimal and they disbanded in 1930. Governor Willis Bradley issued a proclamation defining who were citizens of Guam and in 1930 established the Second Guam Congress. The bicameral body of elected members passed resolutions and submitted them to the governor for adoption or rejection. The Second Guam Congress and the Naval Government remained intact until the Japanese Invasion of WWII.

From December 10, 1941 to July 21, 1944, Guam was oppressively governed first by the Japanese Army and then by the Japanese Navy. The island was incorporated into the Greater East Asia Co-Prosperity Sphere until liberated by American Forces. During the remainder of the war, Guam was governed by combined military services. On May 30, 1946, the government was returned to the control of the U.S. Navy.

Following resumed governmental control by the United States, an increased desire for more political autonomy within the American system was recognized. During July, 1950, U.S. Congress passed the Organic Act of Guam. The Act, signed into law by President Harry S. Truman, became the governing document for the island's citizens. The island was placed under a civilian administration comprised of a 21-member unicameral legislature and a governor appointed by the President with confirmation by the U.S. Senate. The judiciary branch was divided between the Federal District Court handling all cases under the laws of the United States and the Superior Court having jurisdiction over all cases arising under the laws of Guam.

With the passage of the Organic Act, a new period of self-determination brought Guam into the economic sphere of Asia and the United States. A security ban was lifted in 1962 and foreign investment, tourism and immigration of a professional labor force stimulated an economic boom. Carlos G. Camacho was inaugurated as the first elected governor in January of 1971. Guam also has an elected, non-voting delegate to the U.S. House of Representatives. Guam's representative is primarily in a lobbyist position, however, he is allowed to participate in House subcommittees.

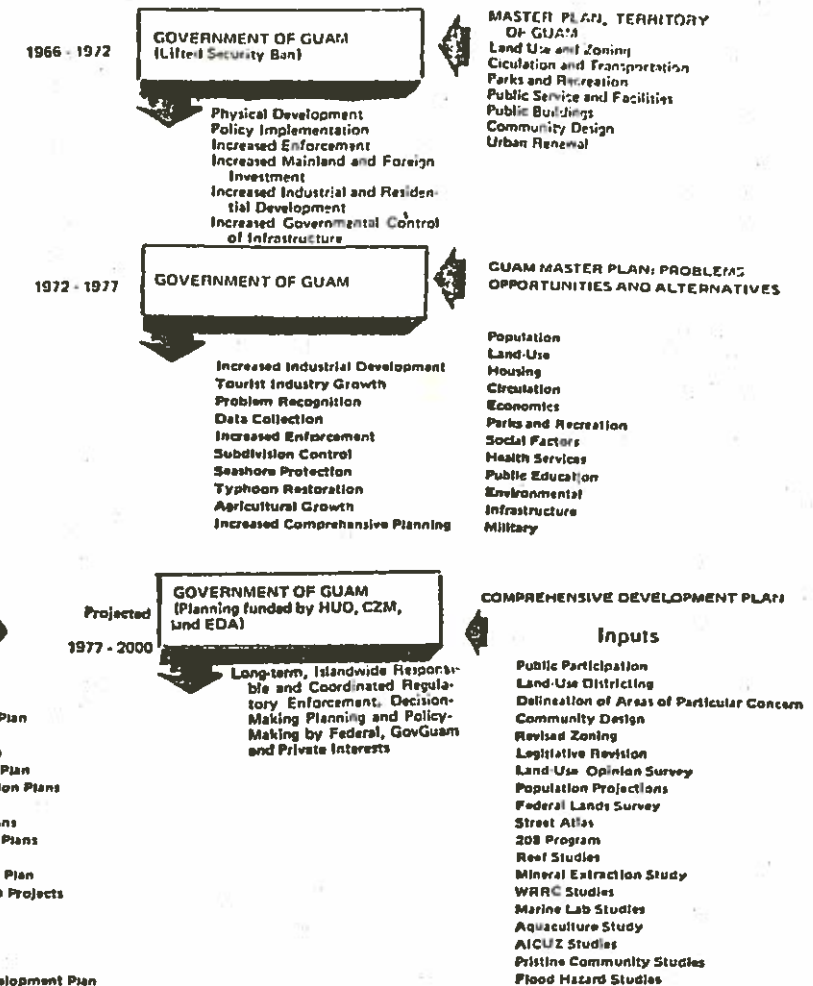
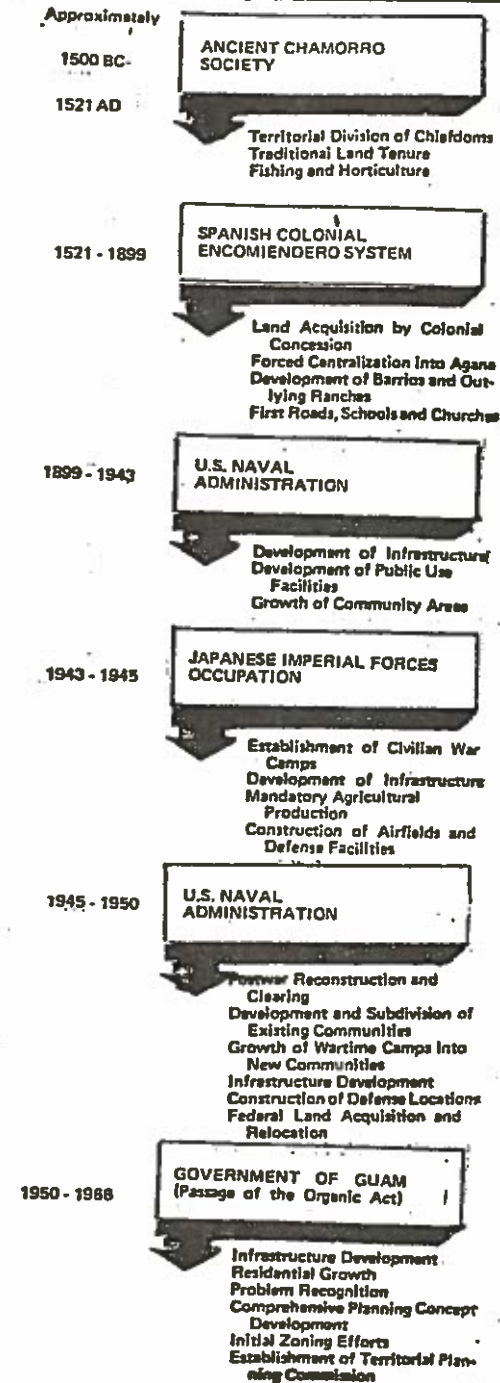
Presently, the island is still seeking greater political clarity in regards to its relationship with the U.S. Government. The island remains an Unincorporated Territory under the provisions of the U.S. Constitution. The local Constitutional Convention has completed the final draft of The Constitution of Guam which is designed to supercede the outdated Organic Act. The new document will be submitted to the U.S. Congress for approval, prior to submittal to the President of the United States for final approval.

11.B.3. History of Land Use and Planning on Guam

Unlike many mainland communities, where land uses have evolved at a relatively constant growth rate or have been regulated by long-standing zoning controls, the island of Guam has been beset by radical political changes and wars that have caused drastic fluctuations in land-use patterns. The Spanish administration eradicated the original village territories and WWII devastated the land-use patterns within communities established under Spanish rule. New communities formed or were restructured after WWII with design more in response to military defense needs than regard to the physical characteristics of the island. Lifting a security ban in 1962 caused rapid economic growth that overwhelmed the limited land-use controls then in effect.

It has only been in the last decade that concerted land-use planning and regulatory mechanisms such as those for zoning, seashore protection, air and water quality have appeared on Guam. The 1966 Master Plan was the pioneer effort towards much-needed comprehensive planning, but was soon outdated. A 1972 Master Plan, which was only partially completed, identified problems, alternatives and opportunities, but was not fully implemented. Presently, the Comprehensive Development Plan is the first long-range plan with enforceable provisions and which has the benefit of a wide range of new technical reports as base data for the balanced growth of the Territory. The accompanying figure summarizes the evolution of land-use practices and planning on Guam.

Figure 3 A History of Land Use and Planning on Guam



II-B-4. Principal Economic Activities

Government

The largest economic sector of the community is government. Excluding military employment of civilians, federal and local government employees on payrolls totalled 10,800 or one-third of the total employment of 31,500. Including the military, total public employment approaches 15,000 workers, or almost half the workforce.

The Construction Industry

The economic impact of public expenditures goes further than direct employment. At present, the construction industry with 3,500 employees is almost entirely dependent on the public sector as a result of the continuing recession. At one time, it was the largest private sector industry with over 8,000 employees. Residential construction now consists largely of completing projects begun a few years ago and post-typhoon Pamela reconstruction, as private sector investment in new buildings has slowed dramatically.

The Retail and Wholesale Trades

In terms of payroll and gross receipts, the largest industry in the private sector is wholesaling and retailing. This industry employs 5,600 people, more than agriculture, manufacturing, transportation, public utilities, finance insurance, and real estate combined. The industry is principally dependent on the household expenditures of the resident population, and to a lesser degree, on tourist expenditures. Significant growth has not occurred in the retail and wholesale trades in the past four years as Guam faced the worldwide recession, the energy crisis, and an overall decline in tourism.

Table 3. Average Number of Employees in
Retail and Wholesale Trades

Average 1973:	5,525
Average 1974:	5,400
Average 1975:	5,850
Average 1976:	5,450
Average 1973-1976:	5,550

As in any area with a rapidly expanded population, there is a definite growth potential for the wholesaling and retailing trades. Recent evidence of Congressional sympathy for reduced subsidization of the military exchange and commissary system holds promise for a direct and positive impact upon this sector of the economy. If the overall level of

subsidization is reduced by Congress, growth in excess of normal expansion could be expected.

The Service Industry

The largest single business group in the service industry is the hotel industry, which accounted for 33% of the service industry's FY 1976 gross receipts, and one-third of the industry's employment throughout 1973-1976. The number of employees on payrolls in the service industry has remained stable in the past four years, averaging a steady 4,000 workers.

Comparing the total gross receipts of the personal services, business services, auto rental and other service industry groups to those of the hotel industry, and taking a conservative estimate of the portion directly or secondarily resulting from tourism, it is clear that tourism is the major component of the service industry, and is the source of half of the industry's revenues.

The service industry's growth potential lies in three areas. One is the increasing sophistication and inter-dependence of the business community, which can be expected to continue and accelerate as the basic infrastructure and level of utilities services improves. The second and third are the expansion of the economy as a whole, and tourism as an individual sector.

Tourism

From 1967-1974, tourism grew rapidly and was a major contributor to the construction and economic boom of that period. In an economy with as large a public sector as Guam's, government revenues resulting from tourism have an immediate and widespread effect on the island. The major sources of revenues are the 10% hotel occupancy tax, the 4% gross receipts tax, and income tax collections on employees.

Two of the major problems in the tourism industry are appropriate concerns of land-use and resources management planning. One is that inadequate infrastructure facilities and services limit business activity in this industry as in any other. Secondly, there are inadequate numbers of improved destinations for the tourists on Guam.

There is reason to believe that the decline in tourist arrivals has reached its lowest level. Visitor arrival surveys indicate that the initial economic impacts on tourism of the oil embargo and its disastrous effect on the Japanese economy in 1975-1976, appear to have passed the recovery from the short-term economic effects suggests that the number of visitor arrivals will soon begin to rise.

Military

Military activity has played a major role in the economy of Guam. It is a principal source of employment and income for the island. In March, 1974, the recorded civilian employment on military reservations exceeded 7,300 and currently the military represents about one-quarter of all direct employment on Guam. In Fiscal Year 1976, military expenditures on Guam totalled \$193.4 million. Of this amount, approximately 74.2% or \$143.5 million covered military and civilian employee payrolls, 11% or \$21.3 million provided for construction and \$28.6 million for other local expenses.

Various other contributions to the community and economy are attributable to the military role on Guam. Military on-the-job training, both formal and informal, contributes to the development of labor skills, which may be of value to the civilian community. Also, the military frequently assists the Government of Guam in handling certain types of need or emergencies. In addition, basic facilities such as power, water, and medical services, are shared with the local civilian community when needs arise. Given the strategic importance of Guam and the declining military presence in Asia, all indications point to a continuing influence by the military establishment on the economic stability of the island.

II-B-5. Industries for Growth: Agriculture, Fishing, Aquaculture, and Transshipment

There are four industries which are only in the first stages of development and have potential for long-term growth and stability: agriculture, fishing, aquaculture, and transshipment.

Agriculture

The agriculture industry has broad economic potential, far in excess of the current level of activity. Development of the industry will require a high level of public and private investment and coordination. Basic data on the resources and activities of the industry are presented in the Development Program for Agriculture in the island's Overall Economic Development Plan (June, 1977). Detailed development planning for the industry, financed by an EDA State Planning Grant, is underway. The industry has been steadily growing, and well-directed, large-scale public investments can greatly accelerate the rate of growth. By import replacement, this industry can enhance the economic impacts of tourism and military spending.

Fishing

Stocks of fish abound in the territorial waters of Guam and in surrounding regional waters of the Pacific. Past fishing endeavors by Vietnamese fishermen, utilizing minimal technology, proved that an abundance of fish exist within the 3-mile limit. Currently, local fishermen are providing the new Public Market with fresh fish and sport fish catches are reported weekly in news columns. Foreign fishing interests, particularly the Japanese, have long successfully exploited migratory tuna in regional waters. The lack of tuna storage facilities prevents foreign fleets using Guam's port for tuna transshipment. Tuna catches within the 200-mile zone are still allowed for foreign vessels. Other types of fishing by foreign interests require permits under the provisions of the Fishery Conservation and Management Act of 1976. Although the 200-mile zone extends beyond the territorial coastal waters, activities have a direct relationship to management of the near-shore marine areas. A Western Pacific Regional Council provides management of the 200-mile zone with enforcement by the U.S. Coast Guard.

Currently, research, management, and development of territorial fishery resources is in a pioneer stage. An increasing interest in the development of such fisheries suggests that this resource area be considered for management attention in the Guam Coastal Management Plan. Territorial fishery resources will be further researched by the Guam Coastal Management Program in order that a more complete data base on the subject be available.

A wise governmental policy pertaining to territorial fishery resources may be to conserve and ensure the wise use of existing stocks of important commercial and game (sport) fish and other aquatic species, and to develop new or poorly utilized ones. Also the government can encourage and assist commercial fisheries research, actively enforce responsible performance standards for resource use and promote the development of on-shore offloading, processing, and storage facilities.

Aquaculture

Given the numerous geologic, climatic, and ecological constraints facing field farming and livestock production on Guam, a growing interest in the development of aquaculture has markedly appeared in the last few years. Development has led to initial efforts to guide the responsible growth of this sector of the agriculture industry. Aquaculture contributes to self-sufficiency by producing food for both local consumption and export.

A 14-acre eel farm complex, in the Agfayan Bay area of Inarajan, has begun operation and expects to produce 100 tons of eel between November, 1977, and May, 1978. Five ponds, covering 2 1/2 acres in the Talofofo River Valley, produce 55,000 prawns per half acre during each growth cycle. Two other prawn farms are in operation and two are under construction. The Department of Agriculture is seeking federal funds for the development of a \$300,000 hatchery for the provision of local stock.

Four major existing aquaculture sites have been delineated on Community Design maps for inclusion in this element of the forthcoming Comprehensive Development Plan and CZM 306 Management Plan. All of these sites are situated within estuarine (river mouth) wetland areas of particular concern. They are also located in coastal areas such that developments must not only be sensitive to wetland ecology, but also that of

shoreline/reef ecosystems. A continuously changing supply of water is a key resource input and a critical factor in site selection; hence, the locations in wetlands adjacent to major rivers. Future developments may involve marine aquaculture in shallow offshore locations. Among the animals and plants that could be produced with aquaculture are fish, shrimp, prawns, mangrove crabs, oysters, and algae (edible seaweed). One mainland corporation has even recently expressed interest in the aquaculture of abalone, a deepwater shellfish of high economic value.

Since most aquaculture related activities will have a direct impact upon locations not only within the immediate coastline, but also often within areas of particular concern, a concentrated effort under the 306 program must be placed upon both the encouragement of protection of sensitive resources as well as encouragement of aquaculture activities for economic purposes.

Transshipment

The problems encountered in the development of a transshipment capability are subject to the most simple and straightforward solutions to any development issue on Guam. Commercial port expansion is required to meet the basic and growing needs of the community, and can be done to such a scale as to allow the immediate and rapid growth of transshipment. Land acquisition, in terms of returning very small portions of the Navy-owned Apra Harbor to the community is the main obstacle to development. In the case of the airport and air cargo transshipment, the existing facilities are sufficient for the most immediate future. Pan American Airways is instituting 747 freighter service to Guam, and should the cargo operations continue to expand, additional facilities will be required in the next few years. Transshipment, both by air and sea, represents immediately realizeable economic growth for the island, and entirely new sources of income. Both the airport and commercial port are administered by autonomous agencies with sole responsibility for their operation. The management of each port is prepared to continue implementation of clearly required expansion. The Coastal Management Program specifically supports expansion of the commercial port. (See Section IV, Part D, APC's.)

II-B-6. Public Attitudes Concerning Land Use

In January, 1977, the Bureau of Planning's CZM Section in coordination with the HUD 701 Program and the Bureau of Labor Statistics conducted an opinion survey of local attitudes toward land use management. Following is an extremely brief synopsis of this study, initiated to meet partially the requirements of 306(c)(1) requiring opportunity for full participation in program development. (See Appendix I for details)

Shoreline Development

Local opinion showed:

- A. The majority of respondents feel residential development should be strictly limited along the shoreline.
- B. Tourism development should be restricted; however, northern residents accept coastal resort development more so than residents of the central and south.
- C. Generally, residents feel that business and industrial development should be strictly limited.
- D. Overall--any development not contributing to the environmental qualities of coastal areas should be strictly limited.

Seashore Protection Act

- A. Only 7% of the respondent felt that the present 30' area is adequate to protect the coast.
- B. Sixty-six percent felt that a much expanded Seashore Reserve was necessary.

Recreation

- A. Present recreational facilities are inadequate.
- B. Public access should be guaranteed along the coastline, although this was a less positive feeling in the south than north (63% vs. 76%).
- C. Owners of coastal property should not have the right to refuse public access.
- D. Public funds should be used to upgrade recreational facilities. For facilities catering to specific user groups such as boat owners, the use of public funds was not so widely supported.
- E. Public funds should definitely be used for cleaning up public beaches.
- F. Military beaches definitely should be open to the public.

Regulated Fishing

- A. Thirty-two percent of the sample respondents had a person or persons in the immediate family who fished "regularly."
- B. Overall opinion was nearly evenly divided on whether or not fishing and coral collecting should be regulated; however, 58% of the respondents in the south felt that it should not be regulated versus 32% giving an affirmative response.

Compensation for Losses Incurred Through Development Controls

Note: This question was an oblique reference to the taking issue and land use control, a question which has never been addressed in case law on Guam. The overwhelming response to this perhaps oversimplified question was that property owners should be compensated for loss of use of one's land.

Citizen Participation

- A. Seventy-nine percent of the respondents had not attended a public hearing in the last year.
- B. Attendance is higher in the south, possibly because of the close-knit community structure and geographic size of the communities.
- C. Respondents generally are split evenly on the effectiveness of public hearings.
- D. Commissioner contact was not generally seen by respondents as reliable method of gauging a community's opinion.
- E. Other methods for future participation should be developed.

General Conclusions

In summary, the survey brought out the following important points:

- 1. In general, coastal development should be strictly limited.
- 2. Along the coastline, public access should be guaranteed, although access through private property is less desired.
- 3. The boundary established by the Shoreline Protection Act in many cases is inadequate to protect Guam's coastline and needs to be redefined.
- 4. Recreational areas and facilities are (tremendously) inadequate.
- 5. Public taxes should be utilized to maintain and construct only those recreational facilities that cater to a large number of users and not specific user groups.
- 6. Subsistence fishing is not widely practiced and consequently should not be strictly regulated.

7. Property owners should be compensated for the impacts of implementing controls that affect the ability of owners to develop their property.
8. Citizen opinions should be obtained through a number of participatory mechanisms.

II-B-7. Agency Responsibilities Affecting Coastal Resources

In addition to the principal agencies described in Chapter IV, Section E (Authorities and Organization), numerous Territorial agencies, boards, commissions, and committees have programs and responsibilities that affect the coastal zone. Brief descriptions of these agencies are included here. The inter-relationships among the programs administered by these agencies are summarized in Appendix 2, Matrix of Present Activities and Inter-relationships.

Agencies

- . Guam Environmental Protection Agency (GEPA)
- . Department of Public Works (DPW)
- . Department of Land Management (DLM)
- . Department of Agriculture (DAg)
- . Department of Parks and Recreation (DPR)
- . Department of Public Health & Social Services (DPHSS)
- . Public Utility Agency of Guam (PUAG)
- . Office of the Attorney General (AG)
- . Bureau of Planning (BP)

Boards, Commissions, Committees

- . Territorial Planning Commission (TPC)
- . Territorial Seashore Protection Commission (TSPC)
- . Central Planning Council (CPC)
- . Subdivision Development Review Committee (SDRC)

Agencies whose activities affect land and water use, but not as a primary function are:

- . Guam Port Authority
- . Guam Power Authority (GPA)
- . Guam Housing and Urban Renewal Authority (GHURA)
- . Department of Commerce (DC)
- . Guam Economic Development Authority (GEDA)

Additional, more detailed information on Territorial agency authorities and enabling legislation is provided in the Appendices.

GEPA

The Guam Environmental Protection Agency administers management activities and studies and enforces all laws and regulations pertaining to Safe Drinking Water Program, Community Wastewater Program, Individual Wastewater Program, Air Quality Program, Solid Waste Program, Pesticides Program, Areawide Wastewater Management Planning (208), Environmental Impact Program and Water Quality Monitoring Program. A GEPA member sits on the Subdivision Development Review Committee (SDRC). GEPA coordinates comments on federal projects EIA's and EIS's.

DPW

The Department of Public Works administers and enforces the Building Law, including requirements for building permits, clearing and grading permits, issuance of Certificates of Occupancy, sign permits, construction-in-street permits, foundation permits, and permits for change of occupancy requiring greater sanitary provisions. DPW also is charged with the planning construction and maintenance of Guam's roads and highways, and comments on EIA's and EIS's. DPW is a member of SDRC.

DLM

The Department of Land Management administers and manages activities on submerged lands, controls all public (GovGuam) lands, records, and maintains all land records, plans, and develops GovGuam subdivisions, administers the official zoning maps, comments on EIA's and EIS's, and serves as staff to the Territorial Planning Commission in its reviews of applicable zoning code as discussed in functions of the TPC. The Territorial Planner at DLM serves as the Chairman of the SDRC.

DAg

The Department of Agriculture administers Agricultural Land Leases and returns such Government of Guam land to DLM if it is not being used productively. The Division of Aquatic and Wildlife Resources within the DAg administers, manages, and enforces the Fish and Game Law; regulates cutting of trees on public land; and shell harvesting; as well as issuing of permits for coral harvesting.

DPR

The Department of Parks and Recreation administers the management and protection of Historic Objects and Sites, and maintains the Guam Register of Historic places. DPR administers and maintains existing public parks

and beaches and plans for future expansion and for acquisition of parks for both local and federal programs. DPR is a member of SDRC and reviews EIA's and EIS's.

DPHSS

The Department of Public Health and Social Services issues health permits and health certificates, signs off on building permits applications (food handling) and certifies families for "underprivileged" status for wastewater hookup grants.

PUAG

The Public Utility Agency administers the provision and maintenance of water and sewer facilities. PUAG Also authorizes water and hydrant facilities for qualifying subdivisions and authorizes grants and loans for connection to existing sewers or construction of septic tanks facilities. PUAG occasionally comments on EIA's and EIS's relevant to water supply or sewer infrastructure.

AG

The Office of the Attorney General is ultimately responsible for legal action taken against alleged offenders of land, water, or air related laws, as well as other civil and criminal violations. The Attorney General provides opinions on code interpretation and legal advice on the commission and agency activities.

BP

The Bureau of Planning is directed with responsibility for Guam's comprehensive planning process for both physical and socioeconomic planning. In addition, the Bureau is designated recipient for the CZM program, the HUD 701 program, the EDA 302 program, and the FDAA's Disaster Preparedness Planning Program. The Director of Planning serves as the chairman of the Central Planning Council, and serves on other executive level policy committees. The Bureau of Planning comments on all EIA's and EIS's for federal projects, certain legislation having to do with the land, air or water use, and is a member of the SDRC.

Boards, Commission's Committees

SDRC

The Subdivision Development Review Committee chaired by DLM's Chief Planner, representatives from DLM, DPW, GEPA, DPR, and BP is responsible for review of all subdivision development projects, zone changes, variances, agricultural subdivisions, and PUD's prior to review by the Territorial Planning Commission.

TSPC

The Territorial Seashore Protection Commission is responsible for the review, approval, and permit issuance of all development within the Seashore Reserve.

TPC

Territorial Planning Commission generally administers the provisions of zoning and subdivision law including approval of zone changes and variances, subdivision, PUD's appeals for zoning and building permits, sign law and related activities (see Organization and Authorities Section: Enumerated Duties of the TPC).

CPC

The Central Planning Council acts as an advisory reviewing, and coordinating body to ensure that current planning programs are consistent with the Comprehensive Development Plan (CDP). CPC must review and approve all CDP elements prior to transmittal to the Legislature and Governor for approval.

Agencies Secondarily Involved with Land, Air, and Water Use

Guam Port Authority

The Guam Port Authority administers and manages the commercial harbor and associated harbor facilities located on Cabras Island within Apra Harbor.

GPA

The Guam Power Authority oversees the production and distribution elements of the island's power system including preparation of studies and plans for improvement of existing facilities and construction of new facilities.

GHURA

The Guam Housing and Urban Renewal Authority administers programs relative to housing and urban renewal. Urban Renewal Programs (Sinajana and Yona, completed; Asan, underway) have had a major impact upon residential and related commercial land use.

DOC

The Department of Commerce is responsible for the Government's activities supporting agricultural, commercial, and industrial development, preparation of economic analyses, and generally coordinating economic development activities on the island. Priorities for future economic development (tourism, light industry, port development, fishing, and possibly agriculture) affect certain land use priorities on coastal resources.

GEDA

Guam Economic Development Authority works in the context of economic priorities developed by DOC to attempt to attract financing and capital, make loans, coordinate growth and act as a catalyst between investors and entrepreneurs.

8. PROPOSED ACTIVITIES AFFECTING COASTAL RESOURCES

In attempting to determine the level of demands that may be placed on the island's coastal resources in the near future, the Coastal Management Program has developed an inventory of those proposed uses having potential impacts for the coastal region. Through identification of the number and type of these uses and their probable environmental impacts, the Program is better able to assess the affects of such development on the coastal area. The adequacy of current and proposed management activities and programs can then be determined on the basis of such assessments of projected development.

A table, listing by location proposed projects affecting coastal resources, is included in Appendix 3.

IIC. Major Considerations and Alternatives

Federal regulations (15 CFR Section 923.71) suggest discussion of "some of the major alternatives that led to particular management approaches" while Section 923.62 states:

"the discussion of alternatives should focus on those alternatives that have been considered seriously and reviewed at some length by OCZM; (and) ... which raised substantial public debate as a result of consultation and public participation."

Considerations

Prior to formulation of alternatives, a number of "considerations" arose at the outset of the 305 program in October of 1976:

- 1) Adequacy of the original grant application program design to address the unique administrative and resource management problems on Guam.
- 2) Data availability and accuracy upon which an effective management program could be based.
- 3) Design of a program to operate effectively within a framework of numerous other local (GovGuam) resource planning and regulation activities without significant overlap.
- 4) Public Law 12-200, which established a process for development of a Comprehensive Development Plan including land use, community design recreation, conservation, and historic preservation elements.
- 5) Adequacy of existing zoning, Seashore Protection and other resource management mechanisms.
- 6) The need for more than 'site specific' designation for identified areas of particular concern.
- 7) The size of the island and lands under direct federal agency control relative to uses subject to the management program.
- 8) High frequency of natural disasters.
- 9) Persistent and pervasive economic difficulties faced by the island.
- 10) Island-wide emphasis of governmental goals for development planning.

Program Direction

The two obvious CZM program directions possible after analysis of major considerations were emphasis upon:

- 1) a management program restricted to a limited coastal zone; or
- 2) an integrated and comprehensive program encompassing all aspects of land and water-use management island-wide.

Development of a redesigned work program, coordination with OCZM through consultant Ralph Field, including a directive from OCZM to among other things, "relate all of the work tasks to the particular needs and constraints of the island of Guam" (OCZM memo February 24, 1976), indicated that a comprehensive, island-wide approach would best serve Guam by strengthening the management of all resources.

Alternatives under Island-Wide CZM Boundaries

Considerations

Zoning

Existing zoning law (Chapter III, Sections 17103-17109, GCG) under the jurisdiction of the Territorial Planning Commission (TPC), the Department of Land Management (DLM) and the Department of Public Works (DPW) is composed generally as follows: (details can be seen in Appendix II, Government Zoning Code).

- R-1 - single family residential and related uses;
- R-2 - multi-family residential and related uses;
- C - commercial wholesale, retail, professional and personal services, restaurants, service stations and related uses;
- A - Rural zone - one family dwellings, extractive and general agricultural use, ("agricultural subdivision," however, permits unimproved lots of 5000 sq. ft. to be created) and a wide range of "recreational" use.
- M1 - Light Industrial zone - manufacturing, fabrication and uses not objectionable, obnoxious or offensive in nature and related uses.
- M2 - Heavy industrial - all uses except residential (a conditional use), including junk yards and any uses not specifically prohibited by law.

Administration of zoning law, as discussed in Issues and Problems (Chapter III), does not adequately provide for protection for a wide range of sensitive lands, nor is interpretation or enforcement of these codes carried out in a comprehensive or consistent manner. The mechanism itself, however, is adequate, and closely resembles similar zoning procedures elsewhere. It is the administration of the mechanism, clarity of relevant code, and agency coordinative difficulties which have resulted in many cases of seemingly inappropriate development to date.

The Seashore Protection Act and Territorial Beach Areas Act

Prior to May 1976 the Seashore Protection Act (P.L. 12-108, GCG Chapter V-A, Sections 13410-13420) and the Territorial Beach Act (P.L. 12-19, GCG Chapter V, Sections 13453-60) provided fairly adequate protection for the seashore insofar as encroaching development was concerned. P.L. 12-19 provided for Territorial Recreation Areas, vesting public right to the ocean shore 25' inland from the 2' contour, while the Seashore Protection Act required a special permit for all development taking place within 100 meters of the shoreline. Reconstruction legislation following typhoon Pamela, however, reduced the area under the SPA from 100 to 10 meters. This action illustrated the need for incorporation of the CZM program into the overall fabric of land and water use management.

Options under the Island-Wide Approach

The principal assumption behind an island-wide approach is a simple one: incorporation of shoreline protection and coastal resources management into the overall land use planning mechanism is preferable, for comprehensiveness and ease of management, to the development of two distinct management programs. Five island-wide management approaches were identified:

1. Update the 1966 master plan with inclusion of a CZM element addressing activities having a direct and significant impact upon coastal waters, and other requirements of the CZMA.

Discussion

Although a coastal management element probably could have been designed that would have addressed the requirements of the CZMA, the overriding concern was that such a management program could significantly conflict with an "updated" 1966 master plan. Updating the plan was considered unfeasible for the following reasons:

- . The abnormally high growth rate in the five-year period (1968-1973) following the plan's completion resulted in pressures for development and immigration, etc., in excess of the plan's scope, creating immediate and significant changes in basic assumption's.
- . Inadequate funding in the area of land management for such things as updated and comprehensive legal recording of land parcel boundaries, updated ownership maps, and acquisition of current zoning information (delineation of zone changes, conditional uses, PUD's granted) has prevented, in many cases, accurate assessment of facts having a bearing upon procedures for updating the plan.

1. Additional modifications of the plan through approval of marginally acceptable development have established a pattern of growth inconsistent with the intent of the master plan. Updating a plan already weakened by severe modifications was not considered a viable approach.
2. Institute an island-wide zoning system similar to the 1966 master plan, but emphasize more specific zoning regulation for the "catch-all" A (Agriculture) zone and develop more specific management programs for areas of particular concern, priorities of uses, and other aspects of the CZM program.

Discussion

The concept of Land-use districting, as mandated by P.L.12-200, the proposed constitution and conservation-oriented elements of the coastal management program, would not be compatible with more specific Agriculture zone regulations since agriculture subdivision practices as well as loosely controlled zone changes and variances could still alter with relative ease the uses allowed within a given zone. This approach, therefore, would not provide the desired degree of protection for special management areas.

3. Institute an island-wide zoning system together with an urban, rural, agriculture, conservation land-use districting system and elements of the coastal management program.

Discussion

This approach could be a viable one except that zoning changes could too easily compromise the protection afforded by a conservation district, regardless of the specificity of the conservation district regulations. These considerations and those in Option 2, above, suggest the need for establishment of an unzoned conservation district with special additional attention being given to sensitive or areas expected to bear the brunt of intensive development. Such an approach would insulate these sensitive areas from zoning, and more importantly, from zoning variances.

4. Institute a "no zone" approach within the context of a land-use districting system with the coastal management program emphasizing special attention for sensitive areas as well as managing uses having impacts upon coastal waters.

Discussion

Suggested by a senator during hearings on Bills 919 and 920 (now 233 and 234), this approach did not appear workable. Even if it is assumed that the coastal management program together with existing Air Water Quality guidelines would

- require an extremely detailed set of performance standards concerning all possible types of development. Imposition of such stringent standards could produce a sizeable disincentive for needed commercial and industrial activity. Development of such performance standards, let alone enforcement, was judged to exceed the capabilities of the Government of Guam at the present time.
5. Institute a planning process addressing more specifically those particular island-wide problems and issues not addressed by the provisions of P.L. 12-200 and utilizing, for the most part, existing control mechanisms.

Discussion

This management approach, based on existing control mechanisms but with new functions to be carried out under proposed Bill 233, would provide for zoned urban, rural, and agricultural districts, with no zoning in conservation districts. The advantages of the unzoned conservation district are detailed in Options 2 and 3, above. Such an approach could simultaneously accomplish comprehensive land use planning mandated by P.L.12-200 and the draft Constitution, and coastal management planning under the CZM Act.

The CZM program could best serve the interests of Guam by integrating its objectives with those of P.L. 12-200 and ongoing management efforts within other agencies. Planning staff determined that the coastal management program should provide for:

- General data development for all resource planning areas;
- Public participation and involvement;
- Legal process problem resolution;
- Federal Agency coordination and consistency;
- Designation of areas of particular concern and priority uses within those areas; and,
- Specific technical investigation of resources and management programs for those resources.

The "local" land use planning effort mandated by P.L.12-200 would focus upon:

- land-use districting
- coordination among local agencies.
- population and economic growth data
- mapping development
- community design master planning

While performing functions under several programs and authorities, the Bureau of Planning as the designated state agency for CZM can achieve by this coordinated approach:

- 1) A completed Comprehensive development plan including land-use and community design elements;
- 2) A sufficient strengthening of local agency process laws, coordination and data base to adequately deal with the increasing complexity of proposed programs;
- 3) More effective participation of public interest groups;
- 4) Adequate consideration of federal agency interests; and,
- 5) A completed coastal management program totally integrated with, and complimentary to, Territorial planning efforts.

Alternative to Island-Wide Boundary Designation

In the event that Bill 233 does not appear to have the necessary impetus for passage by March of 1978, OCZM has suggested that a narrower boundary may meet the minimum standards of the CZMA for an approvable coastal program. Generally this would involve:

- 1) Preparation of legislation for an extended seashore reserve boundary;
- 2) Re-definition of those areas of particular concern within that boundary for which federal funding under 306 could be used;
- 3) Reassessment of uses subject to the management program under a limited boundary; and,
- 4) Continuation of governmental processes, policy, coordination, participation, training, federal consistency and those other activities as defined in the present program, that are not specifically tied to locational resource and development issues and problems.

It is the opinion of the Guam CZM program staff and OCZM personnel however, that this approach should only be used as a last resort because of the clear advantages of an island-wide planning approach. If, by March, substantial agreement is reached on how Bill 233 could be made acceptable during 1978, but passage is projected to occur after March, the preferred course of action is to extend Section 305 funding into a fourth year, rather than to effect a major program change.

In order to achieve program approval by the close of FY 1978, with the accompanying administrative and financial advantages, Bill 233 must pass the Guam legislature before mid-March. Coastal program review, revision, and approval processes,

including NEPA review, could then be accomplished by September 30, 1978. If Bill 233 is expected to pass the 1978 session of the Guam legislature later than mid-March, adequate time will not be available to complete the required review before the end of the Fiscal Year. Under such circumstances, Guam will apply for 4th year program development funds rather than program implementation funds, and hope to achieve passage of Bill 233 in time to complete and submit the Guam Coastal Management Program for approval by U.S. Department of Commerce during Fiscal 1979.

It should be noted again that a limited coastal boundary approach was considered during the first year of program development and rejected for reasons discussed in the preceding sections.

III. THE MANAGEMENT PROGRAM

Synopsis (See Figure 4)

Chapter III is organized according to major policy statements for Government Processes, Development, and Resources. Within this chapter issues and problems in specific categories are identified and explained, and the policy statement addressing those issues and problems is stated. The authorities, existing and proposed, necessary for the enforcement of policy follow the policy statement. The activities list, following authorities, provides a preliminary indication of the means by which the Guam 306 CZM program will address the issues, problems, and policies. The activities themselves are not an exhaustive and all-inclusive program design as details will be subject to modification as the 306 program develops.

A. Government Processes

1. Issues and Problems

- * Current administration of existing laws and regulations at times does not adequately result in the most effective management of the island's resources.

The inadequacy of certain laws and regulations generates problems in their administration, making consistent application of resource management policies difficult, if not possible.

- * Coordination difficulties create significant confusion among enforcement agencies as to the limits of their jurisdiction.

When a particular agency with responsibility for enforcement of regulatory controls does not clearly understand the limits of that jurisdiction, the end result is a no-action situation where alleged violators are allowed, through neglect, to continue and even expand activities which are obviously in direct conflict with the law. Understaffing of regulatory agencies is often used as a rationalization for failure to address the violation problems and needed clarification of the law and rules and regulations, since day-to-day activities take up all available time.

- * The lack of a sufficient data base, both for projecting population and describing specific characteristics of various land and water areas, hinders effective planning, management and development of the island's resources.

-POLICIES-	-AUTHORITIES-																		
	Comprehensive (2) Development Plan Zoning Law	Seashore Protection Act	Subdivision Law	Territorial Beach Areas Act	Land Conservation Act	Building Code	Territorial Parks	Historic Preservation Laws	Coral Harvesting Laws	Submerged Lands Permits	Public Rights Provisions	Conservation Areas	Endangered Species Act	Draft Constitution	Land Use Districts	Areas of Particu- lar Concern	Water Pollution Control Act	Air Pollution Control Act	Water Resources Conservation Act
GOVERNMENTAL PROCESSES (1)	o	o	o	o	o	o	o	o	o	o	o	o	o	o	o	o	o	o	o
SHORE AREA DEVELOPMENT	o	x	x	x	o	o	o	o		x	o	o		o	x	x	o		o
URBAN DEVELOPMENT	o	x												o	x		o		
RURAL DEVELOPMENT	o	x			o									o	x	x			
PUBLIC ACCESS	o		x	o	x						x					o			
HAZARDOUS AREAS	o	o	x	o		o										x			x
MAJOR FACILITY SITING	o	o														x			
HOUSING	o	x	o	o	o	o									x	o	x		
TRANSPORTATION	o			o											o	o			o
EROSION AND SEDIMENTATION	o		o	o		o										x			x
CONSERVATION OF NATURAL RESOURCES	o	x	x		x	x	x		x	x	o	x	x	o	x	x	x	x	x
WATER QUALITY	o		o	o							o			o	o	x	x	x	
FRAGILE AREAS	o		x		o	o	x	x	o	x		x	x		o	x	o		
LIVING MARINE RESOURCES	o		x		o				x	o		o	x	o	o	x	o		
VISUAL QUALITY	o	o	o	o	o	o	o							o	o	x			x
RECREATIONAL AREAS	o	x	o	o	o	x	x	x				o		o	o	x			
AIR QUALITY	o			o										o	o		x		
AGRICULTURAL LANDS	o	x			x									o	x	x			

AUTHORITIES ENFORCING
COASTAL MANAGEMENT POLICIES

FIGURE 4

-KEY-

"x"- Directly enforces policy
"o"- Indirectly enforces policy
(1)- Policy implemented through enforcement of all
authorities
(2)- Includes individual elements of Comprehensive Plan

Demographic information, especially concerning population projections, is fragmented and incomplete.

There are serious land and water data deficiencies relative to existing zoning and land use, property line maps (at least 1:4800 scale), government land maps, and legal recordation of parcel boundaries, as well a systematic approach to corrections of errors in parcel recordation.

Availability of resource data is limited dealing with such things as fisheries potential, seismic fault zones, agricultural use impacts (pesticides, leachates, etc.), and soil drainage patterns.

Bills are proposed and enacted from time to time which are in conflict with the intent of existing law, or which are of a special interest nature and not consistent with established policies and procedures for the regulation of land and water use.

* Inadequate analysis of many current laws results in a large number of proposed bills which conflict with the policies or provisions in existing legislation.

Passage of special interest legislation, although not as frequent, tends to favor development-oriented activities which do not meet basic requirements for consideration of alternate locations, long-range impacts, adjacent uses, or comprehensive planning in general.

2. Policy

More effective administration of natural resource related laws, programs, and policies shall be achieved through:

- revision of unclear and outdated laws and regulations,
- improved coordination among local agencies,
- improved coordination between territorial and federal agencies,
- educational and training programs for local government personnel, and
- refinement of supporting technical data.

3. Authority

GCG Section

1. Comprehensive Planning Enabling Legislation (P.L. 12-200), as amended. Sections 62020 (a) (i) (5), (j) (3), (j) (4), (o)

4. Program Activities

The Guam Coastal Management Program will:

- a) Provide for revision or introduction of legislation clarifying relevant aspects of law including zoning, seashore protection, and use of hazardous lands.

- b) Improve coordination among local agencies by funding of needed personnel in appropriate agencies including the Attorney General, Guam Environmental Protection Agency, Department of Land Management, Department of Agriculture, and Department of Parks and Recreation. Such personnel will be for the purpose of addressing specific problems identified by these agencies and the Coastal Management Program; a memorandum of understanding will outline the responsibilities of participants.
- c) Provide for increased coordination between the local government and federal agencies with identified interests in specific activities relative to the scope of the CZM/land use program.
- d) Assist enforcement agencies to achieve consistent and effective programs by preparation of specific guidelines relative to agency responsibilities and limits of jurisdiction for land and water use law.
- e) Provide for the planning and establishment of training programs, seminars, workshops and similar activities to develop the skill levels of key personnel within related government enforcement agencies.
- f) Continue and expand efforts for the provision and publication of the island technical data base for population, mapping, resource description and use, fisheries, agriculture and such other areas as deemed appropriate.
- g) Provide advocacy functions in the review of proposed law, rules, regulations, and plans such that they are consistent with the intent of existing regulations.
- h) Support actions for more frequent updating of the Government Code of Guam.

Development

B. Shore Area Urban Development

1. Issues and Problems

- * Land resources adjacent to coastal waters have been allocated to use with little consideration of the suitability of such land for development or the water-dependency of the uses.

Historical development of major transportation routes immediately adjacent to the shoreline, particularly the 6-mile segment of Marine Drive (Route 2) from Apra Harbor to Tamuning, has combined with inappropriate shoreline zoning to attract a number of commercial and industrial activities.

These uses include large auto dealerships, night clubs, retail and wholesale enterprises, massage parlors, service stations, and other similar activities. Most are poorly maintained, some are abandoned, and very few bear relationship to the adjacent shallow reef flat and sandy beach. Development of this nature continues despite persistent recognition, both popular and legislative, that this area is an eyesore, extremely detrimental to the image of Guam as a scenic island, and that the area should be restored to an open-space conservation use.

- * Several coastal communities lack full sewerage, do not have the benefit of typhoon-proof housing, and suffer from substandard lot sizes, increasing population, poor road conditions, and are in constant danger from severe storm and flood damage.

Geographic access and public utility constraints to inland development have created serious problems for the expansion of Asan, Piti, Umatac, Merizo, and, to a degree, Inarajan. These villages, constantly beset by water supply, sewerage, road maintenance, and other public utility problems are also blessed with superb natural coastal scenic resources. The historic development of these relatively small communities has fostered a closely-knit social structure, and the maintenance of a traditional land tenure systems. Natural disasters continually degrade the attractiveness of these communities.

2. Policy

Only those uses shall be located within the Seashore Reserve which:

(1) enhance, are compatible with or do not generally detract from the surrounding coastal area's aesthetic and environmental quality and beach accessibility; or (2) can demonstrate dependence on such a location and the lack of feasible alternative sites.

<u>3. Authority</u>	<u>GCG Section (unless otherwise noted)</u>	<u>Agencies/ Commissions</u>
Comprehensive Planning Enabling legislation, hereinafter referred to as Public Law 12-200, (as amended)	62020 (a) (j)(5), (j)(3) (j)(4), (0)	BOP
Territorial Seashore Protection Act	13416, 13417	TSPC, DLM, BOP
Territorial Beach Area Act	13454-13456	DLM, DPR
Zoning Law	17203 (b)	TPC, DLM
Land Conservation Act	12603 (c)	DA
Territorial Parks	126009	DPR
Underwater Historic Sites	13985.31, .34	DPR
Submerged Land Permit	U.S. P.L. 93-435	DLM
Public Rights Provisions	13980-2	DLM

Conservation Areas	12350	DA
Draft Constitution	Article IX, Section 3, & 4	GovGuam
Land Use Districts	Bill No. 233, 68003(d)	CPC, BOP
Areas of Particular Concern	Bill No. 233, 68012(3),(4)	CPC,TPC,BOP
Water Pollution Control Act	57044-57047	GEPA
Soil Erosion and Sediment Control Regs. Prom.	12/5/75	GEPA

4. Program Activities

The Guam Coastal Management Program will:

- Improve the coordination and enforcement of the wide range of existing authorities to protect the shore areas of Guam for the benefit of all the people.
- Encourage the development and implementation of land use mechanisms designed to relocate uses adjacent to the shore which bear no relationship to the shore.
- Provide technical assistance to the Department of Land Management to aid in the development of a more effective program for the mapping of GovGuam lands such that land trading can become a more workable mechanism for solution of present adverse-utilization of shore lands.
- Provide technical and financial assistance, through the future designation of specific urban shorelands as Areas of Particular Concern, for preparation of specific and objective plans for the restoration of identified blighted urban shore areas. Coordinate activities with local and federal agencies having an identified interest in such programs.
- Promote future zoning patterns, through the application of the Comprehensive Development Plan, which reflects the physical and socio-economic value of the coastal strand.
- Continue to actively participate in review of proposed projects to be located on or adjacent to the immediate shoreline.
- Continue and expand activities seeking participation and involvement of the public, including special interest groups, civic organizations, and individuals, in the decision-making process for activities affecting the public shore area of Guam.

C. Urban Development

1. Issues and Problems

- * Location of high-intensity development areas has been controlled in many cases, by historical patterns of major facility and infrastructure placement.

During WWII, roads, airfields, and utility systems were developed and located according to strategic guidelines rather than consideration of future land-use need. Resultant attraction of commercial activities locating on or near these facilities promoted a development pattern inconsistent with the suitability of certain areas to support such uses.

- * High impact development, especially intensive residential, commercial and industrial uses, continue to locate in a random pattern interspersed with residential, recreational, and fragile ecological areas.

Lack of clear policy to guide high-impact use location has led to random patterns of urban sprawl demonstrating a general lack of design, compactness and efficiency. Many urban areas suffer from lack of adequate circulation, infrastructure, and defined focus for community design. Fragile resources including wetlands, limestone forests, beaches, and watersheds have been unnecessarily disturbed by such activities.

2. Policy

Uses permitted only within Commercial, Multi-Family, Industrial, and Resort-Hotel zones, and uses requiring high levels of support facilities shall be concentrated within urban districts as outlined on the Land-Use Districting Map.

3. Authority	GCG Section (unless otherwise noted)	Agency/Commission
Public Law 12-200	62011(c), 62020(a),(b),(0)	CPC, BOP
Zoning Law	17100	TPC, DLM
Draft Constitution	Article IX, Section 2	GovGuam
Land Use Districts	Bill No. 233, 68003(a)	CPC, BOP
Toilet Facilities & Sewage Disposal	57061	GEPA

4. Program Activities

The Guam Coastal Management Program will:

- Assist personnel within the Bureau of Planning to develop guidelines for urban districts and review urban district change applications,
- Provide financial and technical assistance to agencies involved in urban development planning to resolve associated zoning, coordination and enforcement problems,
- Continue to support public awareness and involvement in the resolution of municipality problems caused by pressures of urban expansion,

- d) Expand governmental involvement in the early stages of economic development proposals for major facilities which could have significant social environmental impacts on specific communities.
- e) Emphasize adherence to land and water development policy by private, governmental and federal activities.

D. Rural Development

1. Issues and Problems

- * Uncoordinated and random expansion of high intensity urban use into areas having the physical characteristics for future urban use severely limits alternatives for future development and places unnecessary pressures on the ecological as well as financial resources of Guam.

Rural lands have been identified as suitable for future urban use. These areas have acceptable physical characteristics, including topography and proximity to major roads or existing infrastructure. Spot random development of these areas, without provision of adequate infrastructure, or consideration of future development patterns, could commit the limited land resources of the island to uses that would not permit options to any but conflicting use. For example inappropriate siting of a mineral extraction site, or similar activity could prevent development of needed housing units.

2. Policy

Rural districts shall be designated in which only low density residential and agricultural uses will be acceptable. Minimum lot size for these uses shall be one-half acre until adequate infrastructure, including functional sewerage, is provided.

3. Authority

	GCG Section (unless otherwise noted)	Agency/Commission
Public Law 12-200	62011(c), 62020(a),(o)	CPC, BOP
Zoning Law	17100	TPC, DLM
Draft Constitution	Article IX, Section 2	GovGuam
Land Use Districts	Bill No. 233, 68803(b)	CPC, BOP
Land Conservation Act	12601 (d)	DA
Toilet Facilities & Sewage Disposal	57061-3	GEPA

4. Program Activities

The Guam Coastal Management Program will:

- a) Provide review and guidance to the Central Planning Council in their designation of, or changes to, rural districts.

- b) Encourage, through the SDRC, that proposed development in rural districts adequately consider guidelines established for such areas.
- c) Review major infrastructure plans to ensure, as far as possible, that expansion of rural districts will be able to utilize the nearest facilities such as power, water and sewer without major new network construction.
- d) Provide technical and/or financial assistance to relevant GovGuam Agencies for the implementation of an updating system for all land-use, and infrastructure maps.

E. Major Facility Siting

1. Issues and Problems

Energy Facilities

The unavoidable siting of electric power plants and associated energy facilities in shoreline locations will continue to cause negative environmental impacts upon coastal waters.

Electric power generation facilities, given severe geographic constraints, must be located adjacent to the ocean on the leeward side of the island. Prevailing winds, availability of cooling water, needed discharge points for heated effluents, and proximity to petroleum supply require placement of energy facilities on or near the shoreline. A total dependence on fossil fuels for present electrical generating as well as the need for ocean waters for feasible alternate sources (ocean thermal energy conversion or OTEC) indicate a continued demand for shoreline siting of energy-related development.

Port Facilities

Projected expansion of Guam Commercial Port, the Navy Ammo Wharf, the Naval shipyard facilities, and related support uses, although providing for essential port operations, to a certain extent will reduce potential recreation areas, destroy marine habitats, threaten the declining bird population, and reduce access to shore areas. Present development plans are somewhat uncoordinated, created additional dangers of random expansion.

Guam has only one deepwater harbor which must serve all of the island's future needs. Compromises must be made in the near future, concerning development versus conservation of fragile resources. A multiple-use port facility which emphasizes natural and recreational values, together with much-needed commercial and industrial facilities, is one solution. Planning for such integrated use is being carried out individually by the Commercial Port Authority, Guam Economic Development Authority, and the Navy.

2. Policy

In evaluating the consistency of proposed major facilities with the goals, policies, and standards of the Comprehensive Development and Coastal Management Plans, the Territory shall recognize the national interests in the siting of such facilities including those associated with electric power production and transmission, petroleum refining and transmission, port and air installations, solid waste disposal, sewage treatment, and major reservoir sites.

3. Authority

	GCG Section (unless otherwise noted)	Agency or Commission
Public Law 12-200	62011(f), 62020(a)(b)(c),(e),(o)	CPC, BOP
Zoning Law	17100	TPC, DLM
Areas of Particular Concern (See Section on National Interest)	Bill No. 233, 68012(5)	CPC, BOP, TPC

4. Program Activities

The Guam Coastal Management Program will:

- Support federal and GovGuam efforts to identify, designate and plan for areas especially suited for water-related economic development including but not limited to electric power generation, port facilities, petroleum storage and refining, and commercial fisheries.
- Promote an increased level of coordination among involved parties for the planning of above activities including the Navy, Coast Guard, Guam Port, Airport and Power Authorities, Guam Economic Development Authority and the University Marine Laboratory.
- Encourage Government of Guam and private interests to locate major commercial and industrial activities in areas which have adequate public services, and will have the least impact on identified fragile resources.
- Support the return of lands on Cabras Island to the Government of Guam for purposes of providing needed expansion areas for port operation.
- Advocate a multiple use concept including recreation, marinas fishing, and related activities within the areas chosen for major economic development.

- Provide technical and financial assistance for protection and preservation, as far as practicable, of unique floral and faunal communities within the impact areas of major facility development.
- Develop performance guidelines and/or standards for those areas of particular concern (APC) which would be affected by major facility development.
- Recognize the national interest in planning, siting, and construction of major facilities through the mechanisms established for such a process.

F. Hazard Area Development, Housing

1. Issues and Problems

- * Guam is geographically located and geologically structured in such a way that major natural hazards are a way of life rather than occasional occurrences. Despite this fact hazard areas are not well regulated in terms of land-use development controls.

Guam lies in both a major typhoon belt and within one of the most active areas of the Pacific Ocean Basin's "Ring of Fire," or zones of intensive seismic activity. Despite the fact that from 1948-1977 over 80 tropical storms and typhoons passing within 180 nautical miles or closer have caused over \$1 billion in damages, development continues in flood zones of both coastal and estuarine areas, as well as in or adjacent to groundwater sinks. There are no officially designated flood prone areas (although progress is being made), no adequate zoning procedures for flood areas, and no specific building code requirements for structures located within flood areas. Little or no information is available relative to performance standards for areas adjacent to the 6 major and over 2 dozen minor fault lines on the island even though research has indicated that Guam is extremely vulnerable and sustains as much (earthquake) risk as coastal and southern California. High density residential development has taken place within major accident potential zones of the approach corridor to the Naval Air Station in Central Guam, another area of significant disaster potential. Traditional land tenure patterns will continue to impede an immediate solution to many aspects of these problems.

2. Policy

(Hazard Areas)

Identified hazardous lands including floodplains, erosion-prone areas, air installation crash and sound zones and major fault lines shall be developed only to the extent that such development does not pose unreasonable risks to the health, safety, or welfare of the people of Guam, and complies with relevant land-use regulations.

(Housing)

The government shall encourage efficient design of residential areas, restrict such development in areas highly susceptible to natural and manmade hazards, and recognize the limitations of the island's resources to support historical patterns of residential development.

3. Authorities

(hazard areas)

Authority	GCG Section (unless otherwise indicated)	Agency or Commission
Public Law 12-200	\$62020(a),(k),(o)	CPC, BOP
Zoning Law	\$17100	TPC, DLM
Seashore Protection Act	\$13417(a)(3)(e)	TSPC, DLM
Subdivision Law	\$18005(f)	TPC, DLM
Areas of Particular Concern	Bill No. 233; \$68012(a)(2)	CPC, BOP, TPC
Soil Erosion and Sedimentation Control Regs. Prom. 12/5/75		GEPA

(housing)

Public Law 12-200	\$62011(d), (i); \$62020(a), (b), (g), (h), (o)	CPC, BOP
Zoning Law	\$17100, \$17605	TSPC, DLM
Seashore Protection Act	\$13416(c)(4)(c)(5)	TSPC, DLM, BOP
Subdivision Law	\$18001	TPC, DLM
Territorial Beach Areas Act	\$13450(e)	DPR
Land Use Districts	Bill No. 233; \$68003(a), (b)	CPC, BOP
Areas of Particular Concern	Bill No. 233; \$68012(a)(2)	CPC, BOP
Toilet Facilities and Sewage Disposal	\$57063, \$57064	GEPA

4. Program Activities

The Guam Coastal Management Program will:

- Maintain close coordination with the Disaster Preparedness Planning Program and provide technical and financial assistance to related efforts for the identification and regulation of natural hazard areas for planning purposes.
- Prepare final rules and regulations for specific hazard areas identified as Areas of Particular Concern in coordination with appropriate GovGuam and federal agencies.
- Continue research and financial assistance to define the nature of those hazard areas which could pose significant threats to the intensive residential development including flood hazard areas, seismic and fault zones, Karst areas and AICUZ zones.
- Continue participation with the Flood Insurance Administration through Guam's Department of Administration in the designation of Guam's principal flood zone areas. Coordinate response to such designation through the Coastal Zone Advisory Committee or other available expertise including the University of Guam Marine Laboratory, USGS, or private consultants.

- e) Coordinate closely with the Department of Land Management in the re-zoning of identified hazard zones in which certain uses should be limited.
- f) Continue public awareness and education activities including the CZM newsletter and public media presentations relative to the nature of hazard area use.
- g) Stress adherence to requirements of the HUD-approved Land-Use, Coastal Management and Community Design Plans by the Government of Guam and private developers emphasizing design of major residential development promoting efficient use of land, protection from natural hazards, and proximity to needed infrastructure and complimentary land uses.

6. Transportation Network

1. Issues and Problems

- * Expansion of major roads poses a threat to certain beach areas and the primary aquifer.

Alternate means of transportation to the automobile, such as public bus lines, do not exist on Guam. Use of bicycles is difficult and dangerous due to lack of bicycle lanes on major roads, erratic driving patterns of the car-oriented population, and generally poor conditions of road shoulders. These conditions have practically made the use of private motor vehicles the sole means of transport. With well over 60,000 vehicles for a population of over 100,000, major road expansion is always in progress. Location of the Naval Air Station, including the Guam International Air Terminal, on the north central plateau precludes development of possible alternative major transportation routes, or use of existing routes through the area. Lack of alternate routes forces major expansion of Marine Drive adjacent to shoreline areas of Tamuning, Agana, and Anigua. Certain connector roads have been proposed through the center of a major aquifer.

2. Policy

The Territory shall develop an efficient and safe transportation system while limiting adverse environmental impacts on primary aquifers, beaches, estuaries, and other coastal resources.

3. <u>Authority</u>	<u>GCG Section (unless otherwise noted)</u>	<u>Agency or Commission</u>
Public Law 12-200	§62011(g); 62020(a), (c), (d), (o)	CPC, BOP
Land Use Districts	Bill No. 233, §68003	CPC, BOP
Areas of Particular Concern	Bill No. 233, §68012	CPC, BOP, TPC
Subdivision Law	§18005(e); §18400(a), (b)	TPC, DLM
Erosion and Sedimentation Control Regs.	Promulgated 12/5/75	GEPA

4. Program Activities

The Guam Coastal Management Program will:

- a) Review and comment upon, through established EIA and EIS process, public hearing and coordination with Department of Public Works planning, all proposed highway expansion plans.

- b) Support Government of Guam and federal programs which emphasize development of mass transit systems and alternative transportation facilities.
- c) Encourage the location of major road improvement or construction removed, as far as possible from the areas immediately adjacent to coastal waters, as well as primary aquifers.
- d) Encourage design of road systems not requiring curb, gutters and storm drains which drain directly into shallow reef areas.

H. Erosion and Siltation

1. Issues and Problems

- * Onshore construction practices in areas of overburden, steep slopes, and sinkholes have created serious (and well-documented) erosion problems.

Development of areas having a substrate of unconsolidated weathered volcanics has caused extensive erosion and subsequent siltation of some reef flats, particularly in the Piti Bay area. Project designers often do not consider erosion as a constraint to development and thus propose grading and clearing for construction on clay or claylike slopes sometimes with grades in excess of fifty percent. Other development occurs in areas adjacent to sinkholes. The resultant change in drainage patterns eventually silts-in the sinks and creates a potential flood hazard for surrounding development.

2. Policy

Development shall be limited in areas of 15% or greater slope by requiring strict compliance with erosion, sedimentation, and land-use district guidelines, as well as other related land-use standards for such areas.

3. <u>Authority</u>	<u>GCG Section (unless otherwise noted)</u>	<u>Agency or Commission</u>
Public Law 12-200	\$62020(a), (i)(5), (o)	CPC, BOP
Seashore Protection Act	\$13417(a)(3)(e)	TSPC, DLM
Subdivision Law	\$18400(c)	TPC, DLM
Areas of Particular Concern	Bill No. 233; \$68012(i),(2)	CPC, BOP, TPC
Erosion and Sedimentation Control Regs.	Promulgated 12/5/75	GEPA

4. Program Activities

The Guam Coastal Management Program will:

- a) Advocate and coordinate the island's concerns about erosion hazards with the U.S. Corps of Engineers, the U.S. Geological Survey, GEPA, the University Agriculture Program and Marine Lab, the Subdivision and Development Review Committee and other appropriate agencies, committees and individuals.
- b) Support research and public education on the dangers of extensive activity within areas of steep slope, and recommend implementation of structural and non-structural practices to alleviate erosion.

- c) Support efforts to more precisely define erosion prone areas of special management concern and develop performance guidelines and/or standards for these areas through the APC mechanism.
- d) Provide, where possible, financial and technical assistance to GovGuam agencies to implement policies and performance standards for designated areas.

Resource Policies

I. Overall Policy - Conservation of Natural Resources

The overall policy for Conservation of Natural resources, while recognizing the specific problems and issues addressed in this section, is a concise statement reflecting concerns stated in numerous territorial documents, programs and law. It is intended to summarize the overall policy of the Government of Guam and the Coastal Management Program. The authorities for this policy are the same as listed in following resource policy discussion.

The value of Guam's natural resources as recreational areas, critical marine and wildlife habitats, the major source of drinking water, and the island's economy, shall be protected through policies and programs affecting such resources.

J. Air and Water Quality

1. Issues and Problems

- * The large number of motor vehicles, the main solid waste disposal site at Ordot, electrical generating plants, petroleum refinery, and high numbers of air installation takeoffs and landings contribute to air pollution levels.

Despite the above problems, the air quality on Guam is generally high due to fairly constant trade wind and location of energy related facilities on the leeward side of the island.

- * The high overall quality of Guam's coastal waters is being threatened by polluting discharges from various sources. The island's aquifer in Northern Guam could be polluted from uncontrolled residential development, a lack of functioning sewers or extensive use of pesticides and herbicides. Saltwater intrusion is evident in some drinking water wells.

Point source pollution from sewer outfalls, storm drains, and septic tanks has created serious pollution problems in Pago Bay, Sleepy Lagoon, Agana River, East Agana Bay, Tumon Bay, Ylig River, Geus River and others. Stormwater runoff from heavily developed urban areas adjacent to the shoreline contributes greatly to general water quality deterioration. Although presently in excellent condition, the northern aquifer is increasingly under development pressure as a result of its proximity to major island population centers and its suitability for development. If proper controls are not implemented immediately, the aquifer could become polluted. Saltwater intrusion is evident in some drinking water wells and may be a result of excessive pumping.

2. Policies

(Air Quality)

All activities and uses shall comply with all local air pollution regulations and all appropriate federal air quality standards in order to ensure the maintenance of Guam's relatively high air quality.

(Water Quality)

Safe drinking water shall be assured and aquatic recreation sites shall be protected through the regulation of uses and discharges that pose a pollution threat to Guam's waters, particularly in estuarine, reef and aquifer areas.

3. Authority

	<u>GCG Section (unless otherwise noted)</u>	<u>Agency or Commission</u>
<u>Air Quality</u>		
Public Law 12-200	§62020 (i), (o)	CPC, BOP
Draft Constitution	Article IX, Section 1	Gov/Guam
Areas of Particular Concern	Bill No. 233, §68012(a)(3)	CPC, BOP, TPC
Air Pollution Control Act	§57100-§57015	GEPA
Subdivision Law	§18005(e)	TPC, DLM

Authority

GCG Section (unless otherwise noted)

Agency or Commission

Water Quality

Public Law 12-200	§62020(a),(e),(i),(o)	CPC, BOP
Seashore Protection Act	§13416(c)(2)(b)-(d), (c)(4)(c)(2), (e)(4)(d); §13417 (a)(3)(i), (a)(3)(d)	TSPC, DLM, BOP
Subdivision Law	§18400(d)	TPC, DLM, PUAG
Conservation Areas	§12350	DA
Draft Constitution	Article IX, Sections 1 and 3	Gov/Guam
Land Use Districts	Bill No. 233, §68003(d)	CPC, BOP
Areas of Particular Concern	Bill No. 233, §68012(a)(3)	CPC, BOP, TPC
Water Resources Conservation Act	§57020-§57033	GEPA
Water Pollution Control Act	§57040-§57051	GEPA
Toilet Facilities and Sewage Disposal	§57060-§57084	GEPA, PUAG
Safe Water Drinking Act	§57285-§57299	GEPA

4. Program Activities

The Coastal Management Program will:

- Review and comment upon proposed changes in air and water quality laws and rules and regulations which may impact upon the island's people and coastal waters.
- Continue efforts through established mechanisms to develop a process by which complaints by individuals relative to development activities of a questionable nature can be dealt with in an efficient manner.
- Continue to support and provide financial assistance to research, and public awareness of air and water quality problems.
- Continue to maintain close coordination with GEPA and other relevant local and federal agencies in the development and implementation of Coastal Management program activities with respect to Air and Water Quality protection.
- Provide financial assistance to improve implementation and enforcement of existing air and water quality programs.
- Support the reclassification of certain water areas from an A (polluting discharges allowed) to an AA (no polluting discharges allowed) category.
- Advocate, in coordination with PUAG, GEPA, and and USGS, the close monitoring of drinking water wells susceptible to salt water intrusion.

K. Fragile Areas

1. Problems and Issues

- * Development into unique terrestrial land areas has seriously depleted unique floral and faunal communities.

Residential, commercial, and industrial activities often fail to develop in a manner complimentary to the characteristics of the terrain. Wetlands, clifflines, ravine forests and historic and archaeologic sites are increasingly being threatened by developers. Prime examples are the Barrigada Heights Housing Subdivision, the Agana Shopping Center, the proposed Orote Point (Navy) ammunition wharf, the proposed Talofoto Waterfall Park, and the proposed Uruno Point Hotel complex.

- * There is presently no coordinated program for the protection of unique marine habitats, while pressures for development increase daily.

Guam's coral reef-associated marine resources are outstanding. Increasing pressures from thermal effluents, sewage and runoff pollutants, sedimentation, proposed tourist facilities, and similar activities mandate activating a process by which the most spectacular or endangered representatives of these areas could be protected in a source or Park Category. Appropriate areas would include Cocos Lagoon and Barrier reefs, Anae Island patch reef, Luminao barrier reef, Double Reef, Haputo Reef, Uruno Point, Tarague/Scout Beach (Military), and others.

Polluting discharges are allowed into waters within certain of these areas under an "A" GEPA water quality designation. The classification should be changed in the near future to an "AA" or no discharge designation.

2. Policy

Development in the following types of fragile areas shall be regulated to protect their unique character: historic and archaeologic sites, wildlife habitats, pristine marine and terrestrial communities, limestone forests, mangroves and other wetlands.

3. <u>Authority</u>	<u>GCG Section (unless otherwise noted)</u>	<u>Agency and Commission</u>
Public Law 12-200	§62020(a),(i),(j),(o)	CPC, BOP
Seashore Protection Act	§13416(c)(2),(c)(4)(c),(d) §13417(a)(3)(c)	TSPC, DLM, BOP
Territorial Beach Areas Act	§13451, §13454-6	DPR
Land Conservation Act	§12603(b),(c)	DA
Territorial Parks	§26009, §26009.1	DPR
Historic Preservation Laws	§13985-§13985.35	DPR
Coral Harvesting Laws	§12380-4	DA
Submerged Lands Permits	U.S. Public Law 93-435	DLM
Conservation Areas	§12350	DA
Endangered Species Act	§12325	DA
Areas of Particular Concern	Bill No. 233, §68012(a)(6)	CPC, BOP, TPC
Land Use Districts	Bill No. 233, §68003(d)	CPC, BOP
Water Pollution Control Act	§57045-8	GEPA

4. Program Activities

The Guam Coastal Management Program will:

- Provide for technical and financial aid to appropriate Government of Guam agencies to implement the objectives of fragile area policy and develop performance standards for fragile areas designated as Areas of Particular Concern.
- Encourage and support activities and programs designed to protect and or restore fragile areas including historic and archaeologic preservation and restoration, territorial and national park designation, reclassification of certain coastal water quality areas to AA, establishment of aquatic "reserves" under the Agricultural Preserve mechanism, silvaculture and conservation corps activities, and GVB efforts for island beautification.
- Recognize the national interest, coordinate with local interests and federal agencies (including Navy, Air Force, Coast Guard, Corps of Engineers, Interior, Commerce) such that proposed programs for fragile areas are consistent with federal activities.
- Provide technical and financial assistance for research and publication of public awareness and information materials relative to coastal management and other GovGuam programs relative to the island's fragile resource areas.

L. Living Marine Resources

1. Issues and Problems

- * The potential for exploitation of Guam's fisheries has not, to date, been developed.

Fishing as a commercial activity has not been organized the degree that a management program for resources other than reef fishing has been developed. With increasing emphasis on establishment of commercial activities, and the implications of the newly enacted 200 mile marine resource boundary, Guam must take an active part in the determination of use for potential fishery activities.

- * No policy or regulations exists for the taking marine mammals given the limited level of fishing activities in territorial waters.

2. Policy

All living resources within the territorial waters of Guam, including corals and fish, shall be protected from overharvesting and, in the case of marine mammals, from any taking whatsoever.

3. Authority

	<u>GCG Section (unless otherwise noted)</u>	<u>Agency or Commission</u>
Public Law 12-200	§62020(i), (o)	CPC, BOP
Seashore Protection Act	§13416(c)(2)(b)-(d), (c)(4)(c)(2) §13417(a)(2)(a)	BOP
Land Conservation Act	§12603(b)-(c)	DA
Coral Harvesting	§12380-4	DA
Game and Fish Laws	§12303-12311, §12385	DA
Conservation Areas	§12350	DA
Endangered Species Act	§12325	DA
Draft Constitution	Article XI, Section 2 Article IX, Section 3	Gov/Guam
Land Use Districts	Bill No. 233, §68003(d)	CPC, BOP
Areas of Particular Concern	Bill No. 233, §68012(a)(3), (6)	CPC, BOP, TPC

4. Program Activities

The Guam Coastal Management will:

- a) Provide financial assistance for the planning and implementation of a fisheries management program in coordination with the Department of Agriculture.

- b) Continue to support close coordination between Government of Guam Agencies and fishing interests such that government policy and programs reflect both environmental concerns, as well as a realistic guide for fishery utilization.
- c) Provide an advocacy function in the review and analysis of proposed actions expected to have impacts upon fishery resources.
- d) Encourage the development of fishery activities, recreational and commercial, which are consistent with the objectives of rational resource use as outlined in Department of Agriculture Programs, the CDP and coastal management programs.
- e) Develop the necessary legislation and rules and regulations in coordination with Guam's Department of Agriculture's Aquatic and Wildlife Resources Division for the preservation of marine mammals.
- f) Conduct public awareness programs with appropriate agencies relative to the need for conservation of living marine resources, particularly the reef area.
- g) Incorporate the concerns of the U.S. Fish and Wildlife Service, with the Coastal Management Program, and other applicable GovGuam agency and local programs concerning the development of marine resources.

M. Visual Quality

1. Issues and Problems

- * The scenic quality of the shoreline, particularly the ocean view from coastal roads, is rapidly deteriorating in urban areas.

Deteriorating economic conditions over the last five years and frequent natural disasters are responsible, to a great degree, for an increasing numbers of dilapidated or abandoned structures. Inadequate follow-up on conditional-use permits and a lack of zoning regulations requiring landscaping, etc., contribute to the trend. General public apathy toward refuse disposal and associated practices, despite intensive public education efforts by the Guam Environmental Protection Agency, has led to proliferation of park and beach littering, abandonment of junk vehicles and illegal dumping. Inadequate funding in the area of park maintenance further compounds the problem.

2. Policy

Preservation and enhancement of, and respect for the island's scenic resources shall be encouraged through increased enforcement of and compliance with sign, litter, zoning, subdivision, building and related land-use laws; visually objectionable uses shall be located to the maximum extent practicable, so as not to degrade significantly views from scenic overlooks, highways, and trails.

3. Authority

	<u>GCG Code (unless otherwise noted)</u>	<u>Agency and Commissions</u>
Public Law 12-200	\$62020(a),(o)	CPC, BOP
Zoning Law	\$17100, \$17400, 17426(d)	TPC, DLM
Seashore Protection Act	\$13416 (c)(2)(a),(e); \$13416 (c)(4)(c)(2),(3) \$13417(a)(3)(b)	TSPC, DLM, BOP
Subdivision Law	\$18005(e)	TPC, DLM
Land Conservation Act	\$12629	DA
Territorial Parks	\$26009, \$26009.1	DPR
Draft Constitution	Article IX, Section 1	Gov/Guam
Land Use Districts	Bill No. 233, \$68003(d)	CPC, BOP
Areas of Particular Concern	Bill No. 233, \$68012(a)(3)	CPC, BOP, TPC
Litter Control	\$57170	GEPA

4. Program Activities

The Guam Coastal Management Program will:

- a) Provide technical and financial assistance to the Department of Parks and Recreation, the Guam Visitors Bureau, and other appropriate agencies for additional research necessary to provide comprehensive protection for identified scenic vistas.
- b) Support, through coastal management program activities, a more effective application of existing land use controls affecting identified scenic vistas.
- c) Encourage continued development of territorial and federal parks in areas judged to be of scenic value, thereby enhancing the tourism potential of Guam.
- d) Provide technical and financial support to those GovGuam agencies involved in the planning and restoration of areas judged to be of scenic value including such activities as planning for and implementing positive action programs for litter clean-up, junk car disposal, public awareness, and scenic highways, overlooks and trails.

N. Recreational Areas, Public Access

1. Issues and Problems

- * Parks, conservation areas, wildlife refuges and open-space public lands often lack basic amenities. Communities strongly feel the lack of active sports facilities, while certain parks and beaches have support facilities which are often poorly maintained.

Sufficient land area is available for coastal and inland parks, wildlife refuges, scenic overlooks and hiking areas. Use of these resources is limited, however, by limited access in terms of developed and maintained roads, paths or trails, inadequate support facilities, and lack of detailed locational information. An overwhelming majority of citizens expressed feeling that insufficient facilities were available within village community centers for basketball, tennis, volleyball, and softball. Although government funds are continually being appropriated for such facilities, actual acquisition, planning, construction, and/or improvement is a lengthy process for both sports-oriented open space and conservation uses. Funding for continuous maintenance is a persistent problem for both types of recreational facilities.

2. Policy

(Recreational Areas)

The Government of Guam shall encourage development of varied types of recreation facilities located and maintained so as to be compatible with the surrounding environment and land uses; adequately serve community centers and urban areas, and protect beaches and such passive recreational areas as wildlife and marine conservation areas, scenic overlooks, parks, and historic sites.

(Public Access)

The public's right of unrestricted access shall be ensured to all non-federally owned beach areas and all Territorial recreation areas, parks, scenic overlooks, designated conservation areas and other public lands; agreements shall be encouraged with the owners of private and federal property for the provision of reasonable access to, and use of, resources of a public nature located on such land.

3. Authority	GCG Section (unless otherwise noted)	Agency or Commission
(Recreational Areas)		
Public Law 12-200	\$620209a),(b),(j),(o)	CPC, BOP
Zoning Law	\$17100	TPC, DLM
Seashore Protection Act	\$13416(c)(2)(e), \$13416(c)(4)(c)(4), \$13417(a)(3)(a), \$13417(a)(3)(c)	TSPC, DLM, BOP
Territorial Beach Areas Act	\$13450(d), \$13451-5	DPR
Land Conservation Act	\$12603	DA
Territorial Parks	\$26009, \$26009.1, \$26017	DPR
Historic Preservation Laws	\$13985.2	DPR
Conservation Areas	\$12350	DA
Draft Constitution	Article IX, Section 1	Gov/Guam
Land Use Districts	Bill No. 233, \$68003(d)	CPC, BOP
Areas of Particular Concern	Bill No. 233, \$68012(a)(7)	CPC, BOP, TPC
(Public Access)		
Public Law 12-200	\$62020(a),(o)	CPC, BOP
Seashore Protection Act	\$13416(c)(2)(e), (c)(4)(c)(3), \$13417 (a)(3)(a)	BOP
Territory Beach Areas Act	\$13450, \$13451, 13454-6	DPR
Subdivision Law	\$18005(h)	TPC, DLM
Public Rights Provisions	\$13980-2	DLM
Areas of Particular Concern	Bill No. 233; \$68012(a)(4)	CPC, BOP, TPC
4. Program Activities		
The Guam Coastal Management Program will:		
a) Provide technical and financial assistance for the planning of facilities improvement for existing and proposed territorial parks.		
b) Support the designation of, and provide assistance for the planning and establishment of additional terrestrial and marine recreational areas.		
c) Provide technical and financial assistance for the development of additional cooperative use agreements with the Navy and Air Force for joint use of federal recreational facilities and provide funding for the planning of areas to meet the requirements of existing agreements.		

- d) Encourage the application of existing law relative to public rights of access to coastal and inland recreational lands.
- e) Assist in the development of maps, newsletters and other public awareness materials for educational use relative to the island's park system emphasizing their fragile nature and need for protection.
- f) Promote the establishment of active sports facilities emphasizing the importance locational siting particularly for marine-related activities, which would provide maximum public access with minimum adverse environmental impact.
- g) Encourage the use of Apra Harbor as a multi-use area by maintaining, as far as practicable, open access to shore areas, minimizing high-intensity use impacts, and provision of public recreation areas including but not limited to Luminao Reef, Glass Breakwater, and Piti Channel.
- h) Promote the designation of Cocos Lagoon as a National Marine Sanctuary or similar designation which would protect the fragile nature of the lagoon and barrier reef.

0. Agricultural Lands

1. Problems and Issues

- * Development of prime agricultural lands for other than agricultural use could reduce the possibility of agricultural self-sufficiency on Guam.

While not a major problem given the large numbers of other impediments to rapid agricultural growth, activities should improve rather than jeopardize a potentially valuable resource. Existing practice insofar as "agricultural subdivision" is concerned allows division of agricultural lands into unimproved lots as small as 5,000 square feet, as well as permitting vaguely defined "recreational use." These practices could pose a serious threat to the resource in the future.

2. Policy

Critical agricultural lands shall be preserved and maintained for agricultural use.

3. Authority

	<u>GCG Section (unless otherwise noted)</u>	<u>Agency or Commission</u>
Public Law 12-200	§62011 (c), §62020(a),(o)	CPC, BOP
Zoning Law	§17100, §17607	TPC, DLM
Land Conservation Act	§12601-3	DA
Draft Constitution	Article IX, Sections 1 and 2	Gov/Guam
Land Use Districts	Bill No. 233, §68003(c)	CPC, BOP
Areas of Particular Concern	Bill No. 233, §68012(a)(1)	CPC, BOP, TPC

4. Program Activities

The Guam Coastal Management Program will:

- a) Support the preservation of agricultural lands for agricultural use through provisions of Land-use districting, and in coordination with the Department of Agriculture, develop performance standards and/or guidelines for such districts in accordance with government policy.
- b) Encourage the designation of Agricultural Preserves to protect certain very high quality agricultural lands for use solely for agricultural purposes.
- c) Provide financial assistance to the Department of Agriculture for the implementation of Agricultural land policy.
- d) Continue to support the Departments of Commerce, Agriculture and the University of Guam activities designed for the upgrading of the island's agricultural production.

P. FUTURE ISSUES AND PROBLEMS

Part 923.71(c)(2) of the Coastal Zone Management Program approval regulations requires "a brief discussion of those issues and problems . . . which will be taken into consideration during program implementation and/or future program refinements."

A number of "future" issues and problems were apparent during the process of the CZM, Land-Use, and Community Design Planning process. Some were recognized as having the potential for becoming major issues:

1. Urban Design and Renewal of the Cabras Island to Saupon Point Shoreline

The management program emphasizes strengthening of mechanisms in order to prevent further deterioration of this sector of coastline. While urban renewal projects within communities such as Merizo, Umatac, Asan and Agat could solve the urban blight problem in less densely developed areas, a major re-design and acquisition (or trade) of shorelands should be considered in the future for the shore area from Adelup point to East Agana Bay. A brief study for Agana urban renewal indicated that land-costs alone would be in excess of \$50 million. However, this should not prevent development of planning approaches to the problem under a 306 program in coordination with GHURA and other Government of Guam and federal agency interests.

OIL TRANSSHIPMENT

The concept of a major oil-transshipment facility is presently being actively investigated for location on Guam. The proposed concept includes offloading facilities and storage capacity for a 90-day supply of crude oil for Japan. While certain economic benefits would accrue to the island, the vast and irreversible commitment of resources must be analyzed before any decision is made. With expanded refinery capacity, and related petrochemical industry location which often follows the location of such a facility, trade offs may include the entire tourism industry, as well as introduction of extremely high hazard potentials from oil spills to increased levels of air and water pollution. Too little is known at present to put forth even a cursory prediction on the feasibility of such a facility.

ELECTRIC POWER GENERATION

Guam, in the long run, will have to become less dependent upon fossil fuel-fired electrical generation facilities. Although considerable attention has been given to future siting of generating facilities, reality and the absence of any immediately available alternatives has limited consideration principally to oil-fired plants. In the future, closer consideration must be given to new methods insofar impacts upon coastal lands and waters are concerned. These technologies will most likely include OTEC (Ocean Thermal Energy Conversion) and solar production methods.

FISHERIES DEVELOPMENT

Offshore fisheries exploitation is presently in the beginning stages of development and is faced with a number of difficulties including lack of support facilities and resource base data. However, given the potential market on Guam and in Japan for fish products, this industry may develop in the future. Such development would have a definite impact on coastal resources. At present, the fisheries resources within territorial waters are monitored by the Aquatic and Wildlife Resources Division of the Department of Agriculture. Coastal Management participation in the fisheries area will be largely defined by the needs of this Division, as well as special interest groups concerned with fisheries development.

INTENSIVE AGRICULTURE DEVELOPMENT

While widespread development of intensive agricultural activities appears distant and problematic given rather large constraints including water availability, persistent crop-losses, and the level of capital investment required, worldwide demand for food products could possibly result in such activity. At that time more serious attention would have to be given to such considerations as agricultural runoff, increased erosion problems, and related direct impacts on coastal waters.

DRINKING WATER

Although presently in excellent condition, the fresh water aquifer on Guam could be subject to severe pressure in the next 20 - 30 years. If severe problems do occur introduction of desalinization processes could pose a serious problem insofar as coastal lands would be required for large scale industrial use of this nature.

MILITARY

A distinct possibility exists within the next decade for a major increase of military activities in the Mariana Islands. Although somewhat contrary to statements issued by the defense department, the eroding U.S. military presence in the Asian subcontinent and the Philippines could well mean expansion of activities in U.S. Territories, a situation which could have major impacts upon coastal areas on Guam.

STRONG LOCAL GOVERNMENT

The draft constitution states in Article VII that "procedures for the creation of counties, cities and other political subdivisions shall be provided by law." Despite the fact that local ordinances developed shall not be "inconsistent with law, zoning, and maintenance of local improvement projects," it is not difficult to foresee certain problems with land and water use as a result of local objectives not coinciding with those of an island-wide nature.

CHAPTER IV

REQUIREMENTS UNDER THE COASTAL ZONE MANAGEMENT ACT

A. BOUNDARIES

Subsection 305 (b) (1) of the Coastal Zone Management Act requires that:

"The Management Program for each coastal state shall include ...
(1) An identification of the boundaries of the coastal zone subject to the management program."

The 306 Regulations divide the boundary requirement into four areas, pursuant to Section 304(1) of the CZM Act:

- A. Inland boundaries (15 CFR 923.31)
- B. Seaward boundaries (15 CFR 923.32)
- C. Excluded lands (15 CFR 923.33)
- D. Interstate boundaries (15 CFR 923.34)

1. Inland boundary

Section 304(1) of the CZM Act states that: "The term Coastal Zone" means the coastal waters... and the adjacent shorelands..., strongly influenced by each other and in proximity to the shorelines. The Zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters.

The 306 Regulations require that, in defining this coastal zone, states must include:

- 1. Those areas the management of which is necessary now or is likely to be necessary in the future to control uses identified pursuant to Section 923.11 of these regulations (i.e. uses to be managed)
- 2. Those special management areas identified pursuant to section 923.21 (i.e. APC's)
- 3. Transitional and intertidal areas
- 4. Salt marshes and wetlands
- 5. Islands
- 6. Beaches

and may include:

- 7. Entire watersheds
- 8. Waters under tidal influence
- 9. Indian lands not held in trust by the Federal Government

In determining Guam's inland boundary, it was difficult, if not possible, to identify any potential major land uses which could not have some direct, significant impact on its coastal resources. The broad range of uses that, therefore, had to be included in the scope of the management program suggested that a limited boundary would be inadequate to assure protection of coastal resources. This conclusion derives both from the lack of comparable island-wide management programs under which coastally impacting "inland" uses could be managed and from the coastal orientation of most of

the islands resources use and development. Therefore, by broadly defining the uses subject to the management program, the entire island fell under the definition of a coastal zone as proffered in Section 304(1) of the CZM Act.

Designation of the entire island as the coastal zone, brought all special management areas (APC's), transitional and intertidal areas, salt marshes, wetlands and beaches as required by 306 Regulations, under the management program. All offshore islands in their entirety, including Cocos Island, are included in the coastal management program under Section 923.31(a)(5) of the 306 Regulations which requires that:

"In the case of Puerto Rico, the U.S. Virgin Islands, Hawaii, Guam, American Samoa and the Marianas Islands, all islands offshore from the main island(s) must be included."

Two of the areas identified in the Regulations for optional inclusion within the coastal zone, watersheds and waters under tidal influence, are also covered by the island-wide designation.

2. Seaward Boundary

Section 304(1) of the CZM Act establishes the seaward boundary as extending:

"Seaward to the outer limit of the United States territorial sea."

This places the seaward limit at three nautical miles for purposes of this program.

3. Excluded Lands

Section 304(1) of the CZM Act excludes from the coastal zone: "lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents."

On Guam, over 44,507 square acres or 32.75% of its total land area is under federal ownership. Jurisdiction of this federal land is divided almost evenly between the U.S. Air Force and U.S. Navy, with the remaining 2.5% divided among the Federal Aviation Administration, Department of Interior and the U.S. Coast Guard. (See Table No. 4 and Map No. 1; also, Guam Coastal Management Program Technical Reports, Volume I).

While these federal lands are geographically excluded from jurisdiction of the Coastal Management Program, use of such lands may not be. Section 307 (c)(1) of the CZM Act requires that:

"Each Federal agency conducting or supporting activities directly affecting the Coastal Zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs."

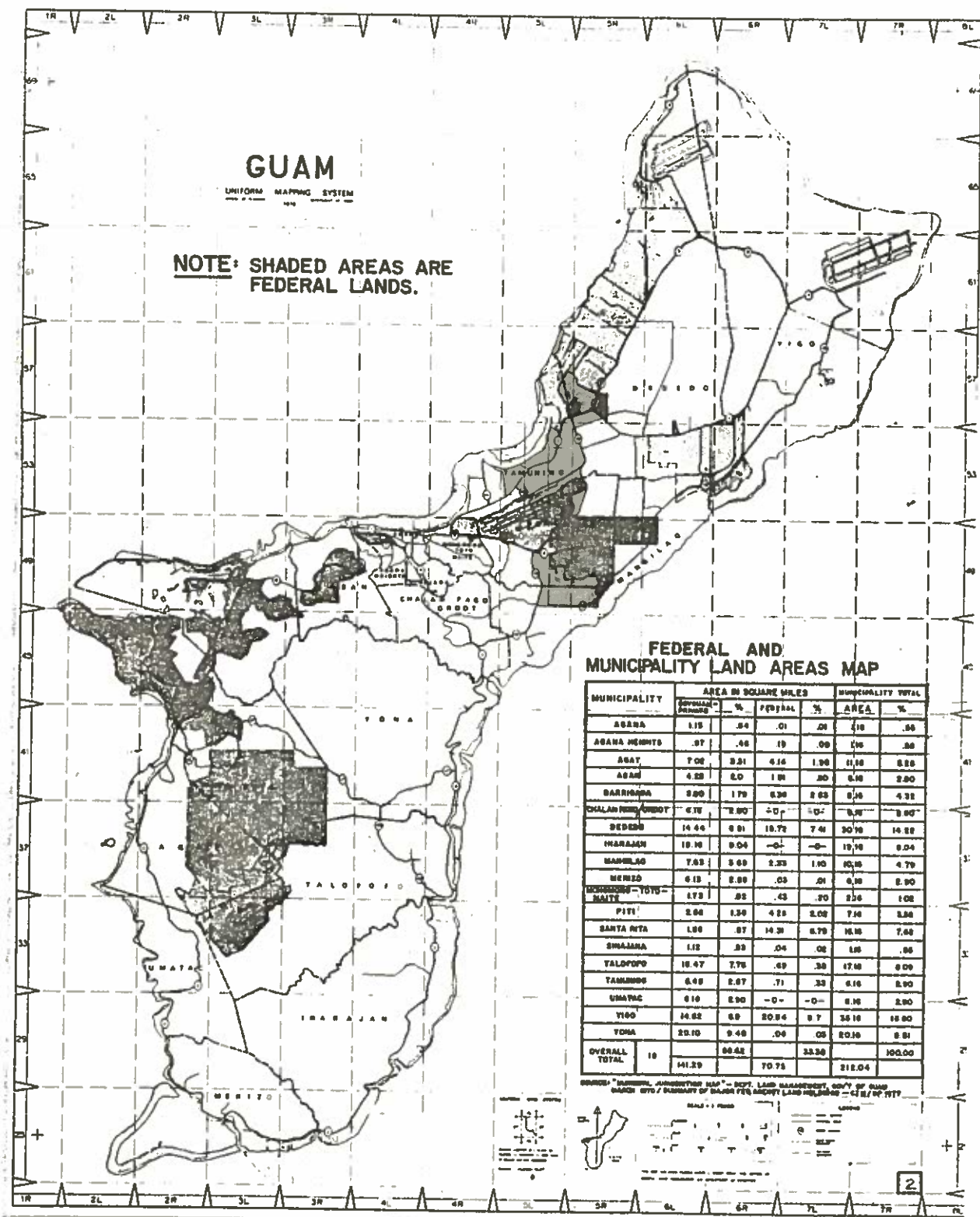
TABLE 4
PATTERNS OF FEDERAL LAND OWNERSHIP (SUMMARY TABLE) 1976

Agency	Acres	Square Meters	% of Federal Land Held	Estimate % of Total Land Area 2
A. Military				
Air Force	20,544.54	83,142,605	46.1%	15.1%
Navy	22,069.24	89,313,021	49.5%	16.3%
Coast Guard	71.99	291,340	.2%	.05%
Subtotal:	42,685.77	172,746,966	95.8%	31.45%
B. Non-Military (Federal)				
FAA	833.18	3,371,812	1.9%	.6%
Department of Interior	988.66	4,001,066	2.3%	.7%
Subtotal:	1,821.84	7,372,878	4.2%	1.3%
Grand Total (A+B)3	44,507.61	1,801,198.44	100.0%	32.75%

*1 Total areas do not include submerged lands adjacent to property owned by the U.S.

*2 Assuming total acreage approximately 212 square miles x 640 acres/square miles, (calculated with acreage totals).

*3 Differences in conversion factors used account for approximately 5% error in acre/square meter comparison.



The mechanisms for determining whether such activities are consistent with the management program are outlined in the Federal Consistency portion of this document.

The submerged lands surrounding Guam out to the territorial sea limit of three miles, formerly under jurisdiction of the federal government, were conveyed to Guam in 1974 under Public Law 93-435. One of several area categories excluded in this transfer was "all submerged lands adjacent to property owned by the United States above the line of mean high tide". These latter submerged lands, therefore, are excluded from the coastal "zone" definition.

4. Interstate boundaries

While Guam's Coastal Management Program boundary is not immediately adjacent to that of any other state or territory, it should be noted that the Northern Marianas have begun development of a coastal zone management program for their islands. Though the nearest island under jurisdiction of that program, Rota, is about 32 miles north of Guam, some consultation between the two programs has occurred, with more anticipated as the new program develops.

B. USES SUBJECT TO MANAGEMENT

Section 305(b)(2) of the CZM Act requires that states identify land and water uses which have a direct and significant impact on coastal waters. Early in the development of Guam's Coastal Management Program, a determination was made that, because of the island's size, geography and land use patterns, no meaningful distinctions could be drawn between those types of uses that will directly and significantly impact the coastal area, and those that will not.

Guam's relatively small land area limits the resource base available to accommodate competing demands for coastal resources. This condition is aggravated by military consumption of one-third of the island's area. Tourism causes often conflicting demands for scenic and recreational resource protection on the one hand, and efficient transportation and convenient public and retail services on the other. Similarly, commercial interest in locating near the center of tourist and residential activity can easily blemish the scenic resource that attracts customers. The island's topography, particularly in the south, complicates planning efforts, since historical and present-day shoreline settlement patterns derive to some extent from the rugged "interior" lands. The physical reality of Guam is that land is limited, and that none of that land is very far from the sea.

The "inland" portion of Guam is marked by a considerable mixture of uses, some of which impact more directly on the coast than others. In addition, future intensive development of particular inland areas, such as the northern aquifer or southern mountains, would unquestionably affect the coastal waters and resources. Most residential, commercial and industrial developments, as well as the associated public facilities, would be expected to be strongly coastally linked and dependent, even when located in the more inland locations, because of the existing distribution of population and public services. Through recognition of the primary and secondary effects of these uses on the island's coastal resources, and the establishment of an island-wide coastal management program on that basis, the goals and objectives of the CZM Act can best be achieved.

Because of the island-wide nature of the program, virtually all uses of non-federal land fall within its scope. Land and water uses subject to management include, but are not necessarily limited to, activities affecting: (1) air and water quality; (2) historic, cultural and scenic resources; (3) open space and recreation resources, including access to such resources; (4) critical marine and terrestrial floral and faunal communities, and (5) water dependent uses, including those related to energy self-sufficiency. Uses of federal land are subject to program review when they have "spillover" impacts on private or Government of Guam land. While most non-federal land uses are affected in some manner by some aspect of the Coastal Management Program, the degree of scrutiny and regulation to which they are subjected varies. In addressing CZMA Section 306 Regulation 15 CFR 923.12, regarding how these uses will be managed, three broad categories of regulatory mechanisms emerge. These include mechanisms for:

1. Determining whether a use is acceptable in a given location.
2. Regulating an acceptable use.
3. Permitting an otherwise unacceptable use.

Full application of these mechanisms, of course, remains conditional upon passage of Bill 233.

1. Use Acceptability

In determining whether a particular use is acceptable in a given location, five major considerations are involved. These include:

- a. The Land Use District in which the use is proposed (Bill No. 233, Sections 68003, 68004).
- b. The Zoning Law if in an Urban, Rural, or Agriculture districts (Bill No. 233, Section 68005; Zoning Law, Title XVIII, GCG).
- c. Conservation District, Development Standards if in a Conservation District (Bill No. 233, Section 68011).
- d. Whether the use is proposed in an Area of Particular Concern (Bill No. 233, Sections 68012, 68015).
- e. Whether the use is proposed in the Seashore Reserve (Title XIV, Chapter V-A, GCG).

Land use districting maps authorized by P.L. 12-200 and required by the proposed Constitution, will define four land use districts for non-federal lands in Guam. The factors upon which the districts will be based include among other factors, topography, soils, existing settlement patterns, agricultural potential, water supply (including aquifers), infrastructure location, and Federal lands.

This process would begin by referring to the Land Use District Boundary Map. If in an Urban, Rural, or Agriculture District, the area will be zoned. Reference to the Zoning Law will indicate whether the use is acceptable as a permissible use or as a conditional use, in which case it must receive approval from the Territorial Planning Commission. If the use is within a Conservation District, reference is made to that district's development standards which include geographical use classifications, with permitted or non-permitted uses within those classifications. Finally, reference is made to the Area of Particular Concern (APC) and Seashore Reserve maps to determine whether the use falls within either of these categories. If so, the APC Development Standards or Seashore Reserve Plan would contain descriptions of certain permitted or non-permitted uses.

In cases where a use is proposed in an area subject to two or more of these controls, priority for application of such standards has been established in Bill No. 233 (Section 68011):

- 1) Areas of Particular Concern
- 2) Seashore Reserve
- 3) District Development Standard or Zone

2. Regulation of Acceptable Uses

Upon determining, through the above mechanisms, whether a particular use is acceptable in a certain area, reference is then made to the applicable standards or guidelines which regulate the use. In some cases, where a use is not specifically disallowed, the applicable regulations may so restrict the use or make compliance so difficult, that the use is effectively prohibited. In most instances, however, the effect of such standards is to direct the development into compliance with appropriate health, building, and landscaping guidelines.

The five major regulatory mechanisms are:

- a. District Development Standards (Bill No. 233, Section 68011).
- b. Zoning Law-Conditional Use, Yard and Area Regulations for Urban, Rural, and Agricultural Districts (Bill No. 233, Section 68005; Title XVIII, GCG).
- c. Subdivision Law, (Title XIX, GCG).
- d. Seashore Protection Act, (Title XIV, Chapter V-A, GCG).
- e. Area of Particular Concern Development Standards (Bill No. 233, Section 68015).

The same priority for application of overlapping standards applies here as outlined in Section 1 above. Required compliance with other existing regulations is achieved by incorporating them, by reference, within the District and APC Development Standards, and Seashore Protection Plan. These standards would include:

- a. Guam Environmental Protection Agency air and water quality, erosion control, and solid waste standards, and well drilling, sewage disposal and construction and pesticide application permit requirements (Title LXI, GCG).
- b. Department of Agriculture coral collection and hunting and fishing regulations (Title XIII, Chapter IV, GCG).
- c. Department of Parks and Recreation Historical Object and Site permit requirements (Title XIV, Chapter XIII, GCG).
- d. Department of Public Health and Social Services' Public Health and Sanitation Standards (Title X, Chapter VI, GCG).
- e. Department of Land Management Submerged Land Permit requirements (pursuant to Public Law 93-435).
- f. Compliance with all applicable federal requirements (e.g., Army Corps of Engineers Section 404, Section 10 and Section 103 permit requirements).

District Development Standards must be prepared by the Central Planning Council no later than ninety (90) days following legislative approval of the initial land use districting map (Bill No. 233, Section 68011). Development Standards for Areas of Particular Concern must be prepared by the Council no later than ninety (90) days following gubernatorial approval of the particular APC (Bill No. 233, Section 68015). These Standards may, but are not required to be adopted prior to implementation of the Coastal Management Program under Section 306 in October, 1978.

3. Permitting Otherwise Unacceptable Uses

a. General Procedures

Under certain circumstances, uses which are otherwise prohibited by the district classification or zoning law, may be permitted. Generally, such deviations can be approved only upon the issuance of findings by the appropriate territorial authority to the effect that the exception is in the public's best interest, is necessitated due to unusual hardship (and/or) is in conformity with the general intent of the land use planning efforts. For the purposes of the administration of the Coastal Management Program, the "public interest" is defined to include the national interest. Such an exceptions mechanism is necessary in that a workable and reasonable set of acceptable uses and standards cannot accommodate or address all possible development proposals. As building design and technology develops, uses formerly unacceptable in certain areas may become more tolerable. These mechanisms are inherently susceptible to abuse, however, by those who see them as convenient methods to subvert and avoid various land use-related regulations. Safeguards against such abuse are provided by this program as proposed, and are discussed in the following paragraphs.

The two most commonly used and abused mechanisms to accommodate such exceptional uses are the zone change (Title XVIII, Chapter XIII, GCG) and zone variance (Title XVIII, Chapter XII, GCG). Currently, zone changes require both a public hearing and findings by the Territorial Planning Commission that the "public necessity, convenience and general welfare justify such action," Sections 17600-17604, GCG. The Coastal Management Program, through Section 68005 of Bill 233, has established a check on the granting of imprudent zone changes through permitting only certain zones, and their concomitant uses, within each of the four districts. Those permitted zones are as follows:

Urban District: Single Family residential (R1)
 Multi-family residential (R2)
 Commercial (C)
 Resort-Hotel (H)
 Light-Industrial (M1)
 Heavy-Industrial (M2)

Rural District: Agricultural (A)
 Single-Family Residential (R1)

Agriculture District: Agricultural (A)

No equivalent mechanism is currently in effect for Conservation Districts because of the lack of zoning therein, but variance procedures may be provided for in that district's development standards.

The district-zone relationship above better assures that the integrity of the districting system is not violated through wholesale zone changes, and the Land Use Plan provides a similar check on variances. Chapter XII of the GCG requires that the granting of such variance will not be contrary to the objectives of any part of the "Master Plan," adopted by the Commission or legislature, in addition to hearing provisions and required findings that 1) strict application of the zoning law would result in practical difficulties or unnecessary hardships inconsistent with the law's intent, 2) exceptional circumstances or conditions apply to that particular property or use thereof, and 3) granting of such a variance will not be materially detrimental to the public welfare or injurious to the surrounding property. With the adoption of the Coastal Management Program's Land Use Plan and approval of its 306 document, the Territorial Planning Commission will be provided, and held to, more enforceable and specific policies with which to evaluate variance requests.

Attempted use of redistricting to gain approval of otherwise unacceptable uses; e.g., change from a conservation to urban classification for establishment of industrial uses, is restricted by provisions that district changes must be consistent with the policies outlined in the Land Use Plan and requirements for district amendments, and be subject to Council, gubernatorial, and legislative approval (Bill No. 233, Section 68006). This process, however, is not so burdensome as to discourage or prohibit valid district changes.

b. National Interest in Facility Siting

The Coastal Zone Management Act and accompanying proposed regulations (15 CFR 923.52) require, as a condition for approval, that the Coastal Management Program consider that the "national interest involved in the planning for and siting of facilities which are necessary to meet other than local

requirements must be met within the context of balancing a national interest in the planning for and siting of such facilities with other national interests related to coastal resource protection." Existing administrative procedures on Guam provide for such consideration and the possibility of siting such facilities. In addition, sections of the proposed Bill 233 concerning districting, zoning, and areas of particular concern (APC's), in association with this management program, provide for "adequate consideration" of national interests in facility siting.

The principal facilities of national interest on Guam, of course, are those associated with national defense. Nearly one-third of the island's total area is held by the U.S. Government as Federal military lands. According to the boundary restrictions in the Act, these lands are excluded from the coastal zone of Guam. Activities on these lands with spillover effects on the remainder of the island are required to be consistent to the maximum extent practicable with the Program. Most military facilities that would need to be accommodated on Guam could be constructed on presently held lands. To the extent that any additional facilities are needed on non-military lands, the possible national security aspects of such needs would certainly be a major consideration in applying various land use regulations. To the extent that additional military facilities or activities^{are needed} in which a national security claim could not be supported, the provisions as described below for considering the national interest in the siting of facilities would be applicable.

In the absence of municipal government on Guam, the Territorial government is the sole land use planning authority. Some comparatively stringent laws have already been adopted to protect the shoreline resources that are among Guam's finest assets. Comprehensive land use planning is intended to add management capability for the remainder of the Territory's strongly coast-related land and water resources. The Guam Territorial Seashore Protection Act of 1974 recognized the importance of shoreline resources, and created the Seashore Reserve to protect against ecologically damaging shoreline development. The Act is quite specific in prohibiting certain types of development on shore lands and in and under coastal waters. Designations of land and water areas as areas of particular concern under provisions of Bill 233 affords opportunity both for

additional protection and management for fragile areas, and for exceptions for extraordinary siting demands. Needs for facilities to meet other than local requirements, as defined by NOAA regulations, can be met.

Section 68012(a) of Bill 233 "encourage(s) development consistent with the capability or suitability of certain geographic areas to support such development . . .," and creates seven categories for such designations. Two of these, subsections(a)(4) and (a)(5), provide respectively for "areas where developments and facilities are dependent upon access to coastal waters . . ." and "areas proposed for development on a scale likely to have an economic, social, environmental, or other impact or island-wide significant." The legislation recognizes that overlap of the Seashore Reserve, APC's, and land use district zoning will occur and, on occasion, conflict. Priorities are established for the application of the development standards associated with three designations in the following order: (1) APC's, (2) Seashore Reserve, (3) District Development Standards or Guidelines. The coastal program's major facility siting policy includes recognition of the national interest as a basis for review of a proposed major facility with the policies, goals, and standards of the Comprehensive Development Plan and Coastal Program. Taking the clearly demonstrated national interest in a particular proposed facility into account, the Territorial Planning Commission can designate a needed site as a "development APC" in order to provide the required exception in extraordinary cases to the strict Seashore Reserve standards.

Federal regulations give some guidance regarding facilities in which there may be a national interest concern. Regional water treatment plants, transportation systems (including highways, airports, and aids to navigation), energy production and transmission facilities, major recreation areas and national defense and aerospace installations are noted. Facility siting in all land use districts outside of the Seashore Reserve boundary, except conservation districts, would require appropriate zoning. Nearly all of these "facilities which are necessary to meet greater than local concerns" are included as conditional uses in all zoning classes (GCG, Section 17000 et seq.). Siting of national interest facilities can be

accomplished, through the granting of conditional use approval by the Territorial Planning Commission, with accompanying sewage disposal, access, parking, structure location, and related covenants or performance standards. Public input in conditional use approval procedures for a major facility is provided for by a public hearing which would accompany such an action. Further review of the facility with the Federal agency can be achieved through submittal of the project to the Subdivision and Development Review Committee prior to TPC consideration. Ample opportunity, therefore, is afforded the concerned Federal agency to provide evidence of the national interest in the siting of the particular facility. As noted earlier, the major facility siting policy of this program assures that due consideration will be given to the national interest.

Since conservation districts are not zoned under the provisions of Bill 233, similar provisions for the siting of conditional uses are not available. Placement of a national interest facility therein would require redistricting of the needed land to one of the other district classifications by the Central Planning Council. A rural district classification might be the most desirable in such circumstances in order to limit induced development of the redistricted area. Bill 233 redistricting standards can accommodate redistricting for such purposes. Revisions of district boundaries must be preceded by public notice and a public hearing, and accompanied by legislative and gubernatorial approval. The review period for the proposed boundary revision, from petition for change to Central Planning Council transmittal of proposed action to the Governor for approval, is limited to 75 days.

It may be valuable to make a final observation with respect to the siting of facilities in which there is a national interest concern. Because of Guam's geographic condition, a considerable burden of proof would be placed upon an agency or private interest making such an assertion. Guam's island character clearly precludes direct interstate impacts from Territorial decisions regarding major facilities such as highways, water treatment facilities and power systems. The stated national policy with respect to protection of fragile wetlands, endangered species and air and water quality, even in the absence of interstate effects, gives weight to efforts meet the national policy objectives of Section 303 of the Act in the face of other demands on coastal resources. On the other hand,

Guam's total responsibility for its own needs associated with such facilities seems to assure due consideration to the siting of these activities. The interstate aspects of transportation facilities and the national security concerns of the local defense establishment of course, are more easily demonstrated.

C.1. ENERGY FACILITY PLANNING PROCESS

Section 305(b)(8) or the CZM Act requires that the management program for each state include:

"A planning process for energy facilities likely to be located in or which may significantly affect, the coastal zone, including but not limited to a process for anticipating and managing the impact from such facilities."

NOAA regulations (15 CFR 923.14) prescribe the contents of such a process to include:

- (1) An identification of energy facilities which are likely to locate in, or which may significantly affect, the coastal zone;
- (2) A procedure for assessing the suitability of such sites for such facilities;
- (3) Articulation of State policies for managing energy facilities and their impacts, including a clear articulation of policies that may be imposed on site location and facility development;
- (4) An identification of how interested and affected public and private parties may be involved in the planning process, and a means of continued consideration of the national interest in the planning for and siting of energy facilities after program approval; and
- (5) An identification of legal authorities and other management techniques that will be used to accomplish State policies and procedures.

The enumeration of the following points of discussion corresponds to the requirement listed above.

- (1) On the basis of findings included within the report entitled Future Power Production and Transmission Alternative Plans, found within Volume I of Guam's Coastal Management Program Technical Reports, the Coastal Management Program may safely conclude that future location of nearly all energy facilities will occur on, or adjacent to, the current Cabras Island sites. The construction of two additional steam plants at this location, coupled with the projected on-line termination of the Piti plant in 1994, will sufficiently accommodate Guam's anticipated 5 percent yearly increase in power demands. Another foreseeable facility development other than these plants would be construction of a proposed 10,000 KW ocean thermal energy conversion (OTEC) plant, again on Cabras Island. The only other facility that is under discussion for Guam is an expansion of the Guam Oil Refining Corporation (GORCO) facilities at Agat. GORCO has indicated that expansion may be

necessary to accommodate increased production or storage demands, or to redevelop certain aspects of its operations that are nearing the end of their economic life. GORCO is a principal supplier for the military installations on Guam, and its production forecast (and siting needs) are closely tied to the levels of military activity on the island.

- (2) Suitability of sites for such facilities is determined in advance by using the general zoning and proposed districting system for the Territory. Nearly all of Apra Harbor is (excluded) military land, but the commercial port facilities are on industrially zoned lands. Existing power facilities and proposed expansion of those facilities are on lands leased from the U.S. Government for their present uses. Possible expansion of the GORCO refinery might extend into wetland areas that are potentially classified as Areas of Particular Concern. An attempt would have to be made to balance alternative site availability and economic feasibility, national interest, and impact on a fragile wetland before expansion should be permitted. Some additional discussion on this topic may be found in the Chapter IV section "Permitting Otherwise Unacceptable Uses - National Interest in Facility Siting." Land use district review and data collection is a continuing process, and the future location of suitable sites for energy facilities will be part of the comprehensive approach to land use management that is being undertaken by GovGuam.
- (3) The Territory of Guam has not yet developed an overall governmental position specifically regarding the management of energy facilities and their impacts. Siting management has been provided indirectly through general zoning standards. An effort to reduce demand for energy and energy facilities was initiated with the passage by the Guam Legislature of Public Law 12-100, which created the Guam Energy Office (GEO) in the Office of the Governor and vested the Office with an energy planning function:

"It is hereby declared to be the public policy of the territory that there exists a Guam Energy Office to mobilize local resources to work with the federal Government and the private sector in order to best allocate fuels available to the territory of Guam; and to determine which energy conservation measures and practices best slow the rate of the growth of energy consumption, assure adequate supplies of energy and fuels for necessary uses, reduce energy, waste, preserve natural resources and protect the environment."

The combined effect of zoning and districting under Bill 233 would be to concentrate new facilities that may be needed for energy conversion, storage, transfer or transportation in industrialized areas whenever possible. Urban District and M1 or M2 zoning standards would address specific landscaping, yard, area, height and parking requirements. Location of such facilities outside of urban areas could be achieved through conditional use approval within the Rural or Agriculture District zones, through special exceptions to the Conservation District Development standards or through a District boundary amendment. In such cases, the Territorial Planning Commission or Central Planning Council would be required to balance the need for establishment of new energy facilities at that particular proposed site against the potential adverse environmental impacts resulting from its location in an area of questionable suitability.

- (4) The Governor has recently taken initial action in establishing a citizen advisory committee to the Guam Energy Office. One of the listed duties of this committee is the development of a twenty-year energy plan for the Territory, and an annual update of the plan. Included in this plan will be a discussion of energy facility development and siting issues. The Coastal Management Program will be involved in a review of such a plan before submittal to the appropriate approval bodies, as will the general public during public hearings on the plan.

In addition, as discussed in the section of this Program that concerns the national interest in the siting of facilities, the possibility of district boundary modification exists to accommodate an energy facility in which there is a demonstrated national interest. In the event of such a redistricting proposal, an accompanying public hearing would provide ample input in the specific siting decision. Public participation in the continuing energy facility siting process has been provided for in the Territory under mechanisms other than the Coastal Zone Management Program.

- (5) Because all of the above administrative procedures are based on statute or executive order, the process for the planning for and siting of energy facilities in Guam is an open and enforceable one.

2. Shorefront Access and Protection Planning

Requirements

Section 305 (b) (7) requires "a definition of the term "beach" and a planning process for the protection of, and access to, public beaches and other public coastal areas of recreational, historical, esthetic, ecological, or cultural value." The Draft - Interim Final 306 Regulations of December 21, 1977, Section 923.25 provided the guideline for preparation of this Section.

Approach

The approach developed for establishment of a shorefront access and protection planning process included:

- (1) Analysis of available data relative to shoreline and reef physiography, shoreline use, proposed development, recreations military lands, public opinion, and legal authorities.
- (2) Data-base development including physiographic study of all shore and reef areas with definition of "beach," and,
- (3) Coordination with the Department of Parks and Recreation for identification of public, private, and military beaches, projected demands for beach recreation areas, plans for expansion of public facilities and criteria evaluation of publicly owned beaches with development potential.
- (4) Based on physiographic beach description and Department of Parks and Recreation Data, development of an access study for all identified beaches, and identification and classification of access.
- (5) Analysis of existing legal mechanisms for the purpose of defining existing authorities for provision of public access.
- (6) Development of a districting process designating conservation districts, many of which consist of coastal areas and adjacent lands, and where open space and public use are high priority uses:
- (7) Establishment of an APC mechanism under which beaches and other shore areas could be designated as APC's in the future if existing laws were found to be inadequate.
- (8) Passage by law of a Resort-Hotel Zone, including rules and regulations for setbacks, lot-to-building ratios, open space, and design considerations.

(9) Formulation of policies, identification of authorities and projected management program activities for Shore Area Development, Conservation of Natural Resources, Recreation areas, and Public Access.

Supply and Demand for Shore Area Facilities; Major Public Concerns

Appendix 4 indicates the type of access and restrictions to access of all beach areas of Guam. Map 2, page , is a general access analysis with three categories: I-Open Access; II-Access with owners permission, and III-restricted access.

As an overall conclusion, it appears that development in terms of facilities (rest rooms, shelters, etc.) is the major public concern indicated by 79% of the respondents to the Land Use Opinion Survey. (See Chapter II, Section 6 of this document). The second major consideration expressed regarding shoreline beach areas was cleanliness and maintenance of public beach areas.

The Department of Parks and Recreation's Comprehensive Outdoor Recreation Plan used the following method for determination of demand for Outdoor Recreational facilities.

To accurately gauge demand for outdoor recreation areas and facilities on Guam, local standards were established. These standards are based on the standards developed by the National Recreation and Park Association in their publication National Park Recreation and Open Space Standards or standards in the 1967 Delaware Outdoor Recreation Plan. Where these were not available, standards were calculated using Hawaii's Outdoor Recreation Plan. These are shown on Table 5. However, in order to reflect certain characteristics of Guam, adjustments were made for several factors.

Table 5. National and Guam Standards

Natural Land and Water Areas	National Standard	Guam Standard
Environmental areas (#areas, acreage)	N/A	N/A
Hunting areas (#areas, acreage)	N/A	N/A
Trails (#trails, miles)	1 mile/400	1 mile/1,000
Fishing areas (#areas, acreage)	N/A	N/A
Boating areas (#areas, #slips)	1/370	1/400
Swimming (acres of beach)	1/909	1/750
Surfing (#of sites)	N/A	N/A
Scuba (#of sites, acreage)	N/A	N/A

Historic Areas, Cultural Areas

Historical areas	N/A	N/A
Prehistorical areas	N/A	N/A
Cultural areas	1/community	1/island
Natural history areas	N/A	N/A

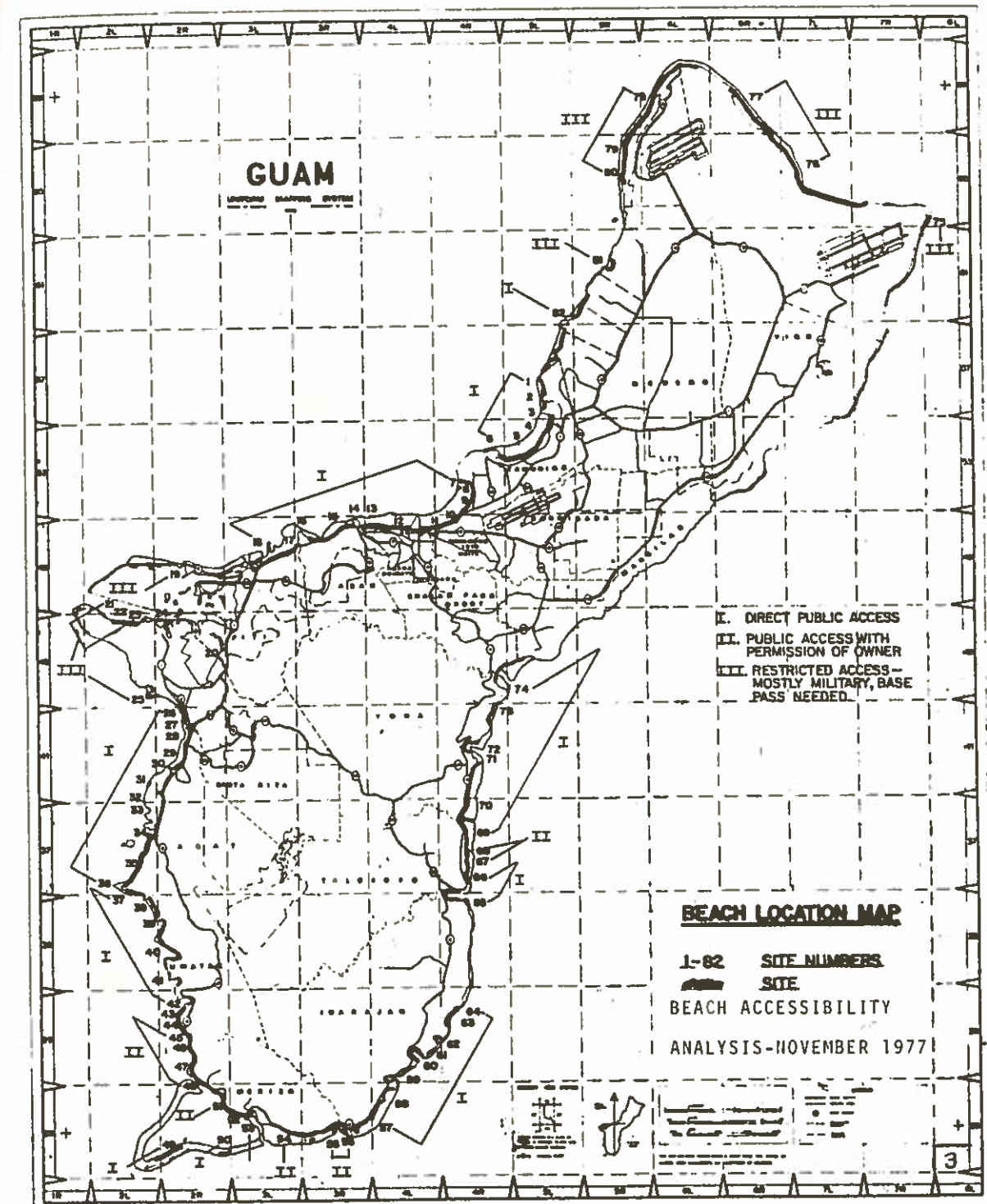


Table 6, derived from the need analysis study, summarizes the need for such facilities. This in turn, by comparison with the existing outdoor recreation facilities, demonstrates the need for additional recreation facilities shown on Table 7.

It should be noted that certain categories in the analysis did not have applicable standards by which to judge the island's needs. On these categories, the methodology used in the 1966 Outdoor Recreation Plan was utilized, taking into consideration the changing socio-economic conditions of the island.

The analysis shown in Table 7 reflects the needs demonstrated by the methodology utilized. It does not take into consideration the limits placed on Guam by a land area of 212 square miles, funding limits, or the opportunities afforded by the high proportion of open access to beaches and the sea. Typical of the latter consideration are scuba and fishing areas, since these areas are in the open sea surrounding Guam, and are essentially undefinable, but openly accessible

Table 6 Guam Recreation Facility Needs

<u>Natural Land and Water Areas</u>	<u>1980</u>	<u>1985</u>	<u>1990</u>
Environmental areas (Acreage)	13,130	18,000	20,000
Hunting areas (acreage)	847	1,000	1,190
Trails (mileage)	127	151	179
Fishing areas (Acreage)	520	640	760
Boating areas (slips)	317	378	448
Swimming (acres of beach)	169	201	239
Surfing (# of sites)	Needs	Undefinable	
Scuba	Needs	Undefinable	
<u>Historic Areas, Cultural Areas,</u>			
Historical areas	Needs	Undefinable	
Prehistorical areas	Needs	Undefinable	
Cultural areas	1	1	1
Natural history areas	Needs	Undefinable	

(Source: Department of Parks and Recreation)

Table 7 Need for Additional Outdoor Recreation Facilities

<u>Natural Land and Water Areas</u>			
Environmental areas (acreage)	0	0	0
Hunting areas (acreage)	0	0	0
Trails (mileage)	24	48	76
Fishing areas (acreage)	0	0	150
Boating areas (slips)	242	303	373
Swimming (acres of beach)	0	0	35
Surfing (# of sites)	Needs	Undefinable	
Scuba (acreage)	Needs	Undefinable	

Historic Areas, Cultural Areas

Historical areas	Needs	Undefinable	
Prehistorical areas	Needs	Undefinable	
Cultural areas	0	0	0
Natural history areas	Needs		

Source: Department of Parks and Recreation

Enforceable Policies, Authorities

Enforceable policies and identification of authority for those policies appear in Chapter III. The Management Program, under Sections B (Development policy) and C, (Resource Policy). Appendix II, contains the complete text of referenced authorities. Policies for Shore Area Urban Development, Urban Development, Hazard Area Development, Housing, Fragile Areas, Visual Quality, Recreational Areas, and Public Access collectively accommodate requirements for shorefront access and planning. The "Organization and Authorities" section specifically outlines authorities for shoreline acquisition. Investigation of the possible use for CZMA Section 315(2) funds for acquisition must, at this time, be deferred until passage of the Omnibus Authorization Bill which may allow use of other federal funds to match OCZM grants. A 50% local match for these funds would seem to preclude Guam's participation because of severe local financial constraints.

Recent passage of P.L. 14 -41, establishing a resort-hotel zone with height, setback and design regulations, lends a greater degree of support for shorefront access considerations within resort areas. Historic, aesthetic and cultural aspects are dealt with in Chapter III under the policies specified above.

Areas of particular concern and districting provisions of bill 233 provide for the requirements for protection of all areas of concern, including shorefront access and planning. (Chapter IV).

Conclusions

Close coordination with the Department of Parks and Recreation in the development of a planning process has indicated that:

- There are adequate areas for development of beach and shore areas for public recreation purposes.
- Urban development areas, particularly from Adelup Point to Alupang Cove, require a major planning effort ;
- Inadequate funding for maintenance and planning and construction of facilities prevents needed improvement for existing shorefront areas;
- Historical and archaeological site protection is well provided for under existing law;
- expected increases in tourism revenues as well as passage of the Omnibus Territory Act could provide additional revenues to make active consideration of 315(2) funding viable.

Specific 306 program activities regarding shorefront access planning and related considerations appear in Chapter III, the Management Program.

Beach Definition

For the purpose of shoreline access and use considerations, a beach is defined as:

"An accumulation of unconsolidated deposits along the shore with their seaward boundary being at the low-tide or reef flat platform level and extending in a landward direction to the strand vegetation or first change in physiographic relief of topographic shoreline."
(Randall & Eldredge: Atlas of Reefs and Beaches of Guam, 1976)

(Concern was initially expressed that this definition excluded "areas with beach deposits which are separated by low tenaces of limestone," however, this was determined not to be a problem considering the beaches identified for public access as well as broad interpretation of "reef flat platform level.")

General Availability Statistics (See Appendix 4, for additional details)

Percent of residents estimated to use beach at least once a month	64%	(70,000)
Length of beach strand accessible to residents		38 KM
Length of beach strand under federal control		16 KM
Total length of beach strand		58 KM
Number of Beaches - adjacent to GovGuam Land		13
Number of Beaches - adjacent to Private Land		43
Number of Beaches - adjacent to Military Land		19
Number of Beaches - Inaccessible by terrain conditions		7
Number of beaches with restricted Access (a base pass is sufficient for entry)		17
Number of No-access private Beaches - No access from inland areas.		2

3. Shoreline Erosion/Mitigation Planning

Section 305(b)(9) of the CZMA requires a planning process for "(A) assessing the effects of shoreline erosion (however caused), and (B) studying and evaluating ways to control, or lessen the impact of such erosion, and to restore areas adversely affected by such erosion."

Appendix 5, "Shoreline Erosion on Guam" explains why such erosion is not a problem on Guam. Briefly, the geologic structure of Guam is such that the entire island is surrounded by a coral reef, and is not subject to wave assault and subsequent shore erosion. Even in major typhoons shore erosion is slight. The designation of slopes in excess of 15% as an Area of Particular Concern will adequately address existing erosion problems through preparation of performance guidelines and/or standards.

D. AREAS OF PARTICULAR CONCERN

Sections 305(b)(3) and 305(b)(5) of the CZM Act require an identification of areas of particular concern (APC's) together with "broad guidelines" on priorities of use within those areas including specifically those uses of lowest priority. In the generic or site-specific designation, "states must indicate the nature of concern (which shall) (i) indicate why areas or types of areas have been singled out for special management attention and (ii) provide a basis for articulating appropriate management policies and use guidelines." 15CFR (923.21(d)(3)) Further, "designation does not necessarily require specific gubernatorial or legislative action" insofar as "such action is necessary only to the extent the appropriate management of designated areas cannot be assured without such action." 15CFR (923.21(d) (2)). 15CFR 923.22, Priorities of Use, requires that "priority of use guidelines including uses of lowest priority, must be established for areas of particular concern designated pursuant to Section 923.21" in order to provide a basis for management of APC's, and a reference point for conflict resolution, as well as to articulate further the nature of interest in designated APC's. The priorities for uses within designated APC's are specifically identified in Figure 5. These have been derived through interpretation of development guidelines provided for each of the designated APC's in Bill 233.

Purpose and Intent

The purpose of designation of APC's through a land use or coastal management plan is to call attention to the importance of the area designated, as well as to provide an additional management capability to ensure responsible development in areas either that have a high degree of environmental sensitivity or that are, or will be, subject to intense development pressure in the near future. Such a special designation can reserve appropriate sites for future economic development as well as protect fragile natural areas. Effective administration of APC's involves management of uses or activities in the designated areas to assure protection of the values recognized in assigning the APC status. In certain very fragile or hazardous areas, adequate protection of the resource values and the public interest therein may require strict limitations on use or development.

Figure 5 Priorities of use within Areas of Particular Concern (APC)

Designated APC's (In order of group designations chapter X - 306 document)	Use Classification										Specific Activities										Other Activities										Other Activities									
	APC										Wildlife Resources (a)										Special Resources (b)										Special Resources (c)									
Group Designation	Mineral Extraction Sites (a)	Industrial and Commercial Support Areas (a)	Urban Waterfronts (a)	AR Installation Compatible Use Zones (AICUZ)	Flood Hazard Areas	Slide and Erosion Prone Areas	Saltwater Faults	Pristine Ecological Communities (Terrestrial)	Critical Habitats	Limestone Forests	Wetlands	Karat Topography	Pristine Ecological Communities (Marine)	Open Space (a)	Special Resources (b)	Special Resources (c)	Wildlife Resources (a)	Special Resources (b)	Special Resources (c)	Wildlife Resources (a)	Open Space (a)	Special Resources (b)	Special Resources (c)	Wildlife Resources (a)	Special Resources (b)	Special Resources (c)	Wildlife Resources (a)	Open Space (a)	Special Resources (b)	Special Resources (c)	Wildlife Resources (a)	Special Resources (b)	Special Resources (c)	Wildlife Resources (a)	Open Space (a)	Special Resources (b)	Special Resources (c)	Wildlife Resources (a)		
A	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2			
A	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2			
B	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1			
C	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1			
C	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1			
C	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1			
C	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1			
E	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1			
E	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1			
E	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1			
E	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1			
E	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1			
F	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1			

LEGEND:

- 1 HIGH PRIORITY
- 2 LOW PRIORITY
- 3 UNACCEPTABLE (d)
- NA NOT APPLICABLE

NOTES:

- (a.) Certain uses such as open space, parks, conservation, cultivation, reforestation, etc., while not a "high priority" use within Development oriented APC's are certainly acceptable and encouraged within multiple use development plans and upon termination of the specified activity. Such post-development use is included in the "Restoration" activity category.
- (b.) Dredging and filling means water related dredging and filling on the same site. "Filling" alone is covered under "clearing, grading, filling."
- (c.) Uses are necessary but not encouraged as "high priority."
- (d.) Exception permitted only for facility in which an overriding national interest can be demonstrated. (15 CFR 923.52)

Chapter V-B of the Land Use Plan, Guam, 1977-2000 delineates all identified potential Areas of Particular Concern with synopsis, statements of envisioned expansion, and suggested performance guidelines. This 306 program document designates as APC's those identified in the Land Use Plan which need immediate special management and for which existing law does not provide adequate protection.

Approach

Basic Criteria. For the purpose of initial delineation, four basic criteria were applied to the land areas of Guam in order to formulate a list of potential APC's:

- . Transitional areas where further development or restoration is called for, or intensely developed areas requiring particular scrutiny for further development;
- . Areas having significant natural values;
- . Areas which have definite and identifiable hazardous characteristics, if developed without proper consideration; or
- . Areas having significant value for public use or well-being.

After applying these general criteria, a more specific breakdown of potential APC's was developed. This appears in the following subsection. The categories marked with an asterisk (*) indicate those for which development standards will be adopted by the Central Planning Council together with official maps. Categories marked by a double asterisks (**) indicate those APC's for which very general development standards can be applied, but for which additional data is needed before comprehensive and effective development standards can be defined. Categories not marked with an asterisk indicate those potential APC's which: 1) were analyzed but considered to have adequate protection under existing law, or under proposed amendments to existing law, or 2) can be designated only upon the future development or proposed construction of a particular facility.

Study Breakdown of Areas of Particular Concern

Group (A). Resource Development Sites. Areas of significant topographic or geologic resources for agricultural, commercial, or industrial support.

- . Mineral Extraction (*)
- . Industrial and Commercial Support (*)
- . Agricultural Support

Group (B). Shoreline Development Areas. Areas where development and facilities are dependent upon access to coastal waters or areas of urban concentration where shoreline utilization and water use are highly competitive.

- . Urban Waterfront Areas (**)
- . Resorts
- . Marinas and Boat Service Facilities
- . Educational Institutions
- . Sewage Disposal Storm Drain Sites
- . Public Parks and Beaches
- . Surfing Sites

Group (C). Hazard Areas. Areas of significant hazard if developed.

- . Airport Accident Potential and Sound Zones (*)
- . Flood Hazard Zones (**)
- . Slide and Erosion Zones (*)
- . Seismic Fault Zones (**)

Group (D). Freshwater Resources. Areas that protect, maintain, or replenish Guam's freshwater resources.

- . Freshwater Resources (primary aquifer) (**)

Group (E). Unique Terrestrial Ecosystem. Areas of high natural productivity or unique and/or fragile natural habitats for living resources, including plants, wildlife, fish, (and inter-related tropic levels of the food chain critical to their well-being).

- . Terrestrial Pristine Ecological Communities (*)
- . Wildlife Refuges (**)
- . Critical Habitats (*)
- . Limestone Forests (*)
- . Karst Topography
- . Wetlands (*)

Group (F). Unique Marine Ecosystem. Marine areas of high productivity and unique or fragile inter-relationships between marine organisms.

- . Marine Pristine Ecological Communities (*)
- . Coral Reefs

Group (G). Cultural and Recreational Areas. Areas of substantial cultural or recreational activity, value and opportunity.

- . Village Recreation Areas
- . Major Park Areas
- . Historic and Prehistoric (Sites with Historic or Archeological Significance)
- . Scenic Vistas (**)

Group (H). Other Areas of Proposed Development. Areas proposed for development on a scale likely to have an economic, social, environmental, or other impact of island-wide significance, including but not limited to existing or planned blight area redevelopment or renewal, residential development of 50 or more units in size planned agricultural subdivisions, or major energy, transportation, recreation, or other public facilities.

- . Subdivision Development Areas
- . Major Public Facilities

Areas of Particular Concern. Synopsis, Statements of Envisioned Development or Expansion, and Suggested Performance Guidelines.

Group (A). Resource Development Sites

1. Mineral Extraction (See Map No. 1, Appendix 6)

Synopsis. Comprised primarily of limestone, sand, and a potential for limited hard volcanic aggregate deposits, the island's mineral deposits have already been significantly developed. Major extraction activities are presently located on the northeast coastline of the island. Illegal extraction of beach sand from several areas is slowly being halted.

Envisioned Development. According to studies currently underway and discussions with producers, supplies of limestone and sand are adequate to meet the island's needs for the next 20 years without significantly expanding extraction operations to other areas of the island. Short-term operations such as repair of the Glass Breakwater, using the Cabras Island quarry, can be expected. The Department of Public Work's Skid Reduction Program is presently engaged in an analysis of potential extraction sites for hard aggregate (basalt) in the southern part of the island. Initial geologic investigations of volcanic aggregate resources are encouraging in relation to the occurrence of a superior grade of unweathered basalt in the Northern Marianas (Pagan Island). A report was released in October, 1977 addressing the specifics of these issues: "Resources and Projections: Availability of Sand as Fine Aggregate for Engineering Construction in Guam" and Memo on Basalt Quality on Guam."

Performance Guidelines. Proposed development guidelines are as follows:

- . Existing extractive activities shall adhere to air, water quality, and erosion-sedimentation standards established by GEPA.
- . Major new development of mineral extraction sites shall be closely evaluated relative to impacts on existing land-forms, adjacent land use, and shall be designed to minimize adverse aesthetic impacts.

- . Actual extraction shall be undertaken in a pattern such that once the land is no longer in extractive use, it will be suitable for urban development or open-space use, e.g., terracing for a residential subdivision use vs. a hazardous and unsightly pit.
- . The economic feasibility of proposed mineral extraction sites shall be closely examined such that a project will have a definite probability of success before land is irreversibly committed for that purpose.
- . Lands proposed for high-population-density or urban-like development shall not be committed for extraction purposes unless such action would be directly compatible with the proposed urban development.
- . Lands having significant ecological, historical, agricultural, or aesthetic values shall not be used for extraction purposes unless the developer can prove that no alternative sources exist as well as proving that the proposal is essential to the health and welfare of the entire island.
- . Beach strand mining for sand according to Government Code and/or Executive Order shall no longer be considered an acceptable use of the shoreline whether or not the resources are located on private property.
- . All coral or other dredging operations, below the Mean High Water Mark, shall fully adhere to existing local and federal statutes including requirements for EIA's before commencement of such operations.

2. Industrial and Commercial Support (See Fig. 1 and Map No. 2, Appendix 6)

a. Power Production and Transmission Facilities

Synopsis. A recently completed study, Future Power Production and Transmission Alternative Plans, Guam U.S.A., indicates that Cabras Island will, in all probability be the site for future power production facilities. The existing Government of Guam site has sufficient land area for two additional steam plants. Thereafter, the adjacent site of the existing Piti plants can be utilized as the present production facilities will probably be going off-line in 1994. Considerations of alternative production methods such as thermal gradient, solar, and wind generation are being considered, but are still too experimental to be subject to a great degree of planning consideration.

Envisioned Expansion. It is indicated in the above mentioned study that GPA's present land holdings are adequate for expansion of bulk fuel oil storage tanks adjacent to the existing pair of 268,000 gallon tanks. Additional tanks will be required at the time Tank No. 4 is programmed for installation at the Cabras site. According to the study, no major changes or additions are required for fuel oil delivery, or transfer of pipeline systems for power plant fueling needs up to the year 2000. The existing 115KV transmission line and planned expansion will provide adequate voltage for Guam's power needs to the year 2000. Right-of-way widths depend on a conductor configuration which will probably remain in a two-circuit, vertical configuration (100 feet or greater) depending upon the span and height of the towers.

Performance Guidelines. Performance standards for sites or production facility development will be based on the following guidelines:

- . Commercial Port, private enterprises, or other Territorial governmental interest shall not prohibitively restrict

projected area requirements for future energy facilities at the present Piti or Cabras Units, or in future proposed sites where location results from lack of alternative sites and a demonstrated national interest in the facility.

- . Applicable local and federal standards for air and water quality shall be strictly enforced.
- . Impacts of thermal discharge (cooling water) into the Piti Channel shall be lessened, with future units disposing of heated water into the ocean rather than the harbor.
- . The water area adjacent to the existing production and storage facilities shall remain open to public access, and GPA planning shall encourage multiple-use, especially recreational boating, anchorage, etc. within these water areas, and replacement of any access or damaged facilities incurred in the process of expansion.
- . Any proposed dredging activities shall be carried out in such a manner as to minimize siltation damage to surrounding marine communities. Silt screens as well as proper timing of dredging activities shall be implemented in conformity with erosion control and water quality standards enforced by GEPA.

b. Commercial Port (See Fig. 1, Appendix 6)

Synopsis. The Commercial Port of Guam is located on Cabras Island and occupies 33 acres deeded to the Government of Guam by the Navy. Only 9 acres are presently used as a container and marshalling yard while 90% of the cargo off-loaded is in containers. The present area, the single gantry crane, and 2,700 linear feet of pier are totally inadequate for present activity which, over the last three years, has averaged around 700,000 tons of cargo off-loaded per annum.

Envisioned Expansion. Plans for expansion include:

- . Immediate development of 24 acres opposite the present port facility for additional container handling space.
- . Redesign and relocation of the access road to the northern edge of Cabras Island.
- . Leveling of terrain in and around the area of proposed expansion.
- . Development of an additional 800 feet of docking space to the east of the present docking facilities and relocation of the feed mill.
- . Long-range development of approximately 4000 feet of additional dock space to the west of the existing Commercial Port (opposite what is now the Yacht Club anchorage and oil storage tanks.)
- . Relocation and expansion of the Yacht Club facilities to the area east of the proposed 800 foot pier/dock extension.
- . Shifting of some of the existing industry for more efficient use of the area.
- . Erection of additional warehousing facilities.
- . In addition, several new industrial-use locations are being considered for location in the Commercial Port area.
 - . Tuna transshipment and fishing processing facility
 - . Scrapyard
 - . Storage and warehousing

c. Superport (See Fig. 1, Appendix 6)

Synopsis and Possible Development. Recently Guam has been considered as a possible site for the location of a transshipment and storage facility for a 90-day supply of oil for Japan. While the decision will ultimately rest with the people of Guam, the Bureau of Planning can only recommend that a thorough examination of the proposal considering the real (not imagined) economic benefits to Guam are weighed against the sizeable irreversible

commitments that such a massive undertaking demands. Considerations must address:

- . The location and impacts of off-loading and support facilities such as a fixed mooring island, and tug/supply boat staging areas.
- . The impacts of a major oil spill, the ability of local agencies to manage the effects, and spill prevention measures at all stages of the operation.
- . A detailed analysis of the real impact on employment, e.g., will outside labor or local hire be used in the construction and maintenance of facilities.
- . The increased demand and impacts of secondary industrial development, especially oil refining, accompanying such development.
- . The impacts of increased activity and tremendous land area, both on the Agat shoreline and the land surrounding present GORCO facilities, required for off-loading and storage.
- . The increased demand for island infrastructure and public facilities (roads, power, water, and communications.)
- . The life span or active life of the storage facilities due to a declining world oil supply in comparison with the permanent and irreversible commitment of both shoreside and inland land and water resources; e.g., will the commitment of land for such facilities be worth the 20-40 years it will be in operation.
- . The strategic impact for location of such a facility on defense capabilities of the island.

Performance Guidelines. Performance standards for development of port facilities will be based on the following guidelines:

- . Applicable local and federal air and water quality, sedimentation and erosion standards shall be strictly enforced.
- . Environmental Impact Assessment procedures adhered to will be

for major developments directly affecting fresh and marine waters and associated flora and fauna; addressing the social, economic, and environmental effects of proposed development.

- . An adequate system of prevention and immediate reaction to potential oil or other toxic spills shall be developed to deal with increased activities within the port area.
- . Construction activities shall be carried out in such a way as to minimize the damage to the environment, historic sites, or existing recreation areas.
- . Land alteration and construction practices shall include provisions of screening by landscaping of objectionable or unsightly industrial activities from public rights-of-way and any adjacent residential areas which may be adversely impacted upon by such development, as well as replacement or relocation of public-use recreational facilities altered or destroyed as a result of expansion activities.
- . Provision of free public access to areas within the port such as the Glass Breakwater, Luminao Reef, and beach and boating facilities.
- . A park or multi-recreational facility be retained for public use west of the present Hotel Wharf including Glass Breakwater, the adjacent beach, and Luminao Reef.

Group (B). Shoreline Development Areas

Overview

In relation to Development Policy 1 relative to the location of facilities adjacent to the shoreline, certain areas of the shoreline were considered potential APC's for the purpose of ensuring compatible growth without destroying the character or accessibility of the shore. While it is recognized that there will always be pressure for the location of private dwellings adjacent to the shore, it is the high-intensity uses of a nature not complimentary to the immediate use of the shore which are of the greatest concern. The following categories were considered as having a priority for location, adjacent to the shore, not including power

production or port facilities which are treated under Group (A) preceeding:

- . Resort Areas
- . Boating, fishing, aquaculture and associated activity areas
- . Educational institution locations
- . Park and beach areas
- . Surfing areas
- . Points for waste and stormwater drains

. Urban Waterfront Areas
Discussion

The designation of each of the above as "generic" APC's appears to significantly overlap existing and proposed mechanisms for control of shoreline Development. Most notably, the recently enacted "H" Resort-Hotel Zone (P.L. 14-41, as amended, and its Rules and Regulations), the proposed revisions to the Seashore Protection Act, and preparation of a Seashore Reserve Plan should adequately address concerns that might also be addressed through APC mechanisms. Generally, the existing controls provide the following:

- . Developers proposing high-intensity residential, commercial industrial, or other uses not complimentary to a shoreline location must demonstrate to the satisfaction of the Seashore Protection Commission that the location is suitable for the proposed development and that proper design considerations would eliminate negative impacts of such development.
- . For seashore location of high-intensity use not compatible with the Seashore Reserved Plan, the developer must provide proof that such development is consistent with the Plan; and that proper procedures are followed for redistricting, zoning and other mechanisms to protect these resources.
- . The guidelines provided by the Seashore Protection Act, as amended, must be followed for all development falling within the Seashore Reserve.
- . Public access to those usable portions of the shoreline must be provided through subdivision development which would otherwise block such access.

- . Development on the beach shall not restrict with along-shore access by placement of structures, including but not limited to fences, seawalls, groins, fill, wave absorbers, piers, docks, or other structures.
- . Where structures as marinas, seawalls, ramps, etc., must by nature interfere somewhat with along-shore access, an alternative path should be provided by the developer.
- . Storm-drain discharge into waters adjacent to recreational beaches or onto reef flats shall be discouraged as a means of lot drainage. On-site ponding basins or other means of runoff disposal shall be encouraged.
- . Structures or activities which alter natural shoreline processes should be permitted only when designed to lessen or eliminate adverse impacts upon the natural shoreline or when it is determined by the SPC that the public interest would be better served by protecting existing structures than protecting natural shoreline processes.
- . When determined feasible and sensitive to shoreline resources, structures shall be built to withstand the potential force of storm waves and typhoon force winds.

Urban Waterfront Areas (See Map 3, Appendix 6)

The villages of Umatac, Merizo, Inarajan, and the Urban Strip from Cabras Island to Saupon point face serious problems discussed in detail in the Land Use Plan and Community Design Plan Elements of the Comprehensive Development Plan. For the purposes of designation of APC's, these areas are considered as Areas of future APC designation and restoration for which additional management techniques have yet to be developed. (See pages _____, and _____, of this document.)

Group (C). Hazard Areas

1. Airport Accident Potential and Sound Zones (See Maps No. 4 & 5) and Fig. 2, Appendix 6)

Synopsis. Accident potential and airport and sound zones, unlike most areas of particular concern, are not areas to be preserved for their ecological or historical significance. The nature of airport technology has produced noise levels and accident potential zones that require specific performance standards. Noise levels can be incompatible with human activity and wildlife preservation and hazard zones can necessitate low-population density oriented land-use activities in certain areas adjacent to airfields. The Guam International Airport and its adjacent areas of specific noise levels and accident potential zones comprise this area of particular concern. Because a military airfield adjoins the Guam International Airport, federal consistency is of major importance in this area. Coordination of local and federal planning involves both the Bureau of Planning and the U.S. Navy Program of Air Installation Compatible Use Zones (AICUZ).

Expansion. According to a new Master Plan being developed, several expansion projects are taking place at the NAS Guam International Air Terminal. These include:

- . Air terminal improvements.
- . Interim airlines cargo building.
- . Land acquisition up to 26 acres at an estimated cost of \$2 million.
- . Aircraft-related improvements (completed during 1976, \$3.5 million) including three aircraft spots, taxiways, lighting and fueling facilities, runway stabilization, fencing, service and maintenance ramp.
- . Implementation of the traffic circulation plan and consolidation of GAA offices (both underway).

Details and the specifications of these projects can be obtained from the Guam Airport Authority, the purpose of discussion being the wider implications on surrounding land use which must accompany expansion, as well as promoting adjacent land uses which are compatible with aircraft operations at the airport.

Performance Guidelines. The problems caused by landing and takeoff of aircraft are not going to diminish in the near future. The Navy is presently engaged in an AICUZ study for NAS, Agana, and the Air Force has completed a similar study for AAFB. The objective of these studies is to determine how aircraft flight patterns can best be designed to minimize negative impacts on surrounding development. The land-use pattern must reflect these impacts with improved zoning designations within identified crash and noise hazard zones. Map No. 4 shows a preliminary pattern for operations.

in Appendix 6
Figure 2^A indicates the uses which will be encouraged within affected areas. As the study for NAS is not scheduled for completion until a later date, the actual redesignation of permitted uses cannot be completed until that time. However, it is expected that the performance standards for aircraft crash and sound zones will follow the recommendations of both plans. Performance standards for land use, adjacent to airport operations, and falling within potential hazard zones, will be based on the following guidelines:

- . Uses compatible with the identified hazard zone delineations shall be reflected in a revised zoning map.
- . Existing non-compatible uses (particularly in the Mongmong-Toto-Maite area) will be permitted to continue as a non-conforming use.
- . At such time as a present non-conforming use ceases, the use designated for such parcels of land shall be consistent with the hazard area use standards.
- . There will be no variance permitted in primary crash and noise zones insofar as location of high-population-density uses.
- . A maximum effort will be made to alter present takeoff-landing procedures to produce the least impact on existing uses. This involves modification of takeoff and landing approach angles and reduction of night landings and takeoff.

- . A maximum effort will be made to utilize noise reduction devices for jet engine testing. This and the above standard are actual requirements within the AICUZ Program.

- . As operations at the airport change, a maximum effort will be made to ease restrictions created by present and expected use patterns.

2. Flood Hazard Zones (Map under review by USGS and other authorities)

Synopsis. As surface drainage patterns on steep slopes merge into rivers, the amount of water flow and concentration of sediments increases. The course of rivers inevitably leads to the ocean along coastal lowlands. Dispersal of water over a floodplain area retains freshwater resources and some sediments are distributed over land rather than into the sea.

During periods of adverse weather conditions that bring persistent rainfall, the natural and developed drainage systems can overflow even further into adjacent flat terrain at the base of a drainage slope. The dispersal of flood water is often confined to natural wetland habitats, but in some cases, can overflow into developed areas of human settlement. If improperly used, floodplains can become problem areas as a result of deterioration of flood-damaged structures and the recurrence of public expense for relief and repair of flood-damaged facilities. When floodplains are left open, practically no flood losses occur. However, because floodplains are level and level land is in high demand on a small island, much development has already occurred in flood hazard zones or further encroaches upon flood plain areas. Performance guidelines for development in historically proven flood hazard zones seeks to prevent damage to property and the quality of human life. The U.S. Army Corps of Engineers has been the primary agency involved in the delineation of flood hazard zones and undertakes projects for flood control. This is not only vital for the protection of both the environment and population, but also the economy as federally subsidized flood insurance requires local delineation and management of floodplain areas in order to be qualified for aid under the Federal Disaster Assistance Administration in the event of disaster.

Performance Guidelines.

- . Open-space uses such as parks, wetlands, agriculture, and parking are encouraged as low-population and low-structural density uses in defined flood hazard zones.
- . Existing urban development within flood hazard zones shall be permitted as non-conforming uses.
- . Proposed urban development within flood hazard zones shall be planned such that land alteration does not increase the flood hazard zone (causing it to extend over adjacent, previously non-hazardous areas).
- . The proposed development shall be planned as such that structures are flood resistant and the possibility of human injury due to flood conditions is negligible.
- . Flood control measures such as dikes, channelization or revetments shall, to the maximum extent practicable, protect wetland wildlife habitats.

3. Slide and Erosion Zones (Slopes in Excess of 15%) (See Map No. 6 Appendix 6)

Synopsis With a few exceptions, large-scale development has not yet occurred on steep lands. In the future, however, population increase and demands for more housing (urban expansion) may seek hillsides as development occupies available level terrain (ex. Barrigada Heights). Often home-builders and resort developers wish to take advantage of the vistas obtained from higher terrain. A historical preference for flatland as being more feasible for development could change as a result of economic pressures for use of land once considered marginal as far as development potential. Therefore, performance guidelines must facilitate protection of slopes as an extremely important area of particular concern.

Approximately half of Guam's total acreage (43%) has a slope in excess of 15%. Steep terrain generally occurs on the savannah grasslands of the southern half of the island and on coastal cliffs and terraces. Because of a multiplicity of problems that can occur with land-use activity on hillsides and cliffhills, open space is encouraged as the predominant land use. The majority of sloping terrain has been designated as conservation districts because the terrain and vegetation

constitutes a natural watershed, an aesthetic resource, and an important area for recreational activities such as hiking and observation of ecological habitats. The vegetation, wildlife, drainage patterns, soil conditions, and underlying geology all suggest an emphasis on open space rather than urban or agricultural development in steep areas.

Construction on hillsides can promote erosion which destroys protective vegetative cover, limits land use, and degrades water quality and visual appearance. Unplanned development can also lead to landslides and increases flood hazard areas. The weight of structures on steep hillsides can cause unstable soils to "slump" and weaken foundations. In extreme cases, mud slides may cause building damage and/or threat to human life. When ground cover is disturbed or removed during development, exposing the soil, potential for erosion has been introduced. As the surface area available for absorption of rain water is reduced by impervious surfaces (roofs, roadways, parking lots, etc.), runoff is increased and the potential for erosion increased along with it. As a rule, slopes are more easily eroded than level lands; the extent of erosion during construction and prior to soil stabilization is substantially increased on steep slopes which are more subject to failure than similar installations in more level landscapes. Where provision is made for public power, water, telephone, or sewage systems, the difficulties and costs are significantly greater on steep slopes. In addition, the acreage requirements for roads and even for structures increases in slope. In short, land area cannot be used as efficiently on steep slopes as on level land. Efficiency is related to cost and some costs of developing land on steep slopes have to be borne by the public, as local government must maintain roadways or other utilities or when erosion, water sedimentation, or slide damage occurs.

- a. *Topography. The topographic characteristics of an area are one of the most important determinants of the suitability of the area for residential land use development. The ratings of land-use topography are as shown in Table 8.

Slopes in the 2% to 5% range are steep enough to provide for good surface drainage and interesting siting, and yet flat enough so that no significant site development problems will be encountered. Some drainage problems may be encountered in the 0% to 2% range, but these can be readily overcome unless there is a large expanse of absolutely flat land. The site plan in the 5% to 10% range will be more costly to develop. Slopes over 10% present problems in septic tank filter field layouts that will be difficult to overcome. In addition, street development costs will be significantly higher than in the 0% to 10% range. Severe limitations in domestic sewage disposal and street development will be encountered on slopes over 20%.

Table 7: TOPOGRAPHY RATINGS

Rating	Slope, in percentage
(a) Rural Residential	
optimum	2 to 5
satisfactory	0 to 2 and 5 to 10
marginal	10 to 20
unsatisfactory	20+
(b) Urban Residential	
optimum	0 to 5
satisfactory	5 to 10
marginal	10 to 20
unsatisfactory	20+

* Source: Keifer, Ralph W., "Terrain Analysis for Metropolitan Fringe Area Planning." Journal of the Urban Planning and Development Division; Dec., 1967, pg. 122.

Performance Guidelines. A general guideline for land use in slide and erosion zones is that all proposed and existing development shall adhere to the Erosion Control Standards established and enforced by the Guam Environmental Protection Agency.

Specific guidelines for land use on slopes must consider:

- . Open space is encouraged as the most compatible
- . land use on slopes in excess of 15%. The steeper the slope, the more the requirement for open space.
- . Hilltops shall be avoided as building sites for urban development as the natural horizon line is interrupted and structures are highly visible.

- Buildings, located below hillcrests, are more sheltered from typhoon force winds, less visible from distant viewpoints, and less prone to cause erosion problems.
- When necessary to locate on sloping terrain, roads and other infrastructure shall be planned to follow the contours of the site. Structural and infrastructural development, if on steep slopes, requires more grading, expense, maintenance, and increases the potential for erosion.
- If necessary on sloping terrain, land grading should be done during the dry season and during the shortest feasible time span to reduce the risk of sedimentation runoff during periods of heavy rainfall.
- When urban development must occur on slopes, natural vegetation should be saved wherever possible and unsurfaced, graded areas should be replanted with a vegetative cover.
- Proposed development on slopes shall include plans for the safe disposal of increased water runoff caused by roofs, pavement, and land grading. This involves mechanisms such as temporary sediment basins, silt screens, ditches, and dikes during construction. Once construction has been completed, altered soil and surface conditions may require permanent inlets and storm drains to convey the increased runoff to an adequate storm water drainage system.
- Where an area hazard study denotes unstable soils, where potential landslides may occur, land use within the hazard area shall be restricted to low-population density activities unless structural means of landslides protection are implemented.

- Generally, slopes are rocky or do not possess the fertile alluvial soils of basin lands and costs of transporting irrigation water to upland terrain is considerable; however, if field farming is considered feasible on steep terrain, mechanisms of erosion control such as contour planning, terracing, ground cover crops, or natural vegetative zones should be employed to minimize potential erosion problems.
- Reforestation efforts shall be encouraged as a responsible mechanism of erosion control for the repair and enhancement of natural or man-made eroded areas.
- Lack of fire control on larger grassy areas in Southern Guam destroys as much as 40% of the visible areas during periods of drought. Most fires are caused by illegal trash burning, camp fires, or illegal use of fire to flush game or clear terrain. Strict adherence to fire control regulations enforced by DPS Fire Department and Burning Permits required by GEPA shall be enforced.

4. Seismic Fault Zones (See Map No 7 Appendix 6)

Synopsis. During eras of the island's geologic development, different blocks of land have uplifted and subsided. The six blocks are divided by fault lines or geologic structural subdivisions zones. In case of seismic or earthquake activity, the most potentially hazardous areas are along these zones. Major geologic activity occurs over such a long expanse of time, though, that the potential hazard along fault lines is slight. The land is stable enough for most land uses. The six major blocks have been mapped and described in the Military Geology of Guam, published in 1959 as a joint effort of the U.S. Army Corps of Engineers and the U.S. Geological Survey. Further geologic and seismological studies are needed before a more precise determination of the extent of the hazards associated with fault lines is known and more precise guidelines can be established.

Synopsis. The underground aquifer systems of Northern Guam provide the bulk of the island's freshwater supply. A layer of freshwater floats upon saltwater and forms a basal lens. The lens is replenished by rainfall percolation through the limestone of the northern plateau. There are three main aquifer areas: Dededo-Yigo, Barrigada, and Chalan Pago-Ordot in Central Guam. In the area over the two northernmost aquifers, numerous sinkholes cause rapid injection of water into the lens system. These areas are particularly critical in terms of pollution of underground supplies as even partial filtration is not in effect. Where urban development surfaces the land over aquifer recharge areas, ponding basins are sometimes needed to assist in rainwater recharge of the underground lens.

In the Central Guam aquifer area, where southern volcanic uplands meet the northern limestone plateau, the topography is intersected by low-lying basins that appear as grassy fields that are flooded during periods of rainfall in the wet season. These natural low-lying basins, like the northern sinkholes, assist in aquifer recharge and are depicted on more detailed maps in the Community Design Element.

Performance guidelines for land use over aquifer systems may ease as ongoing research of the nature of groundwater resources further defines the extent of supplies and the capacity to absorb pollutants. Currently, the most comprehensive study, Groundwater Resources of Guam: Occurrence and Development, by John F. Mink, has been published by the University of Guam Water Resources Research Center as their Technical Report No. 1.

In the southern half of the island, rainfall does not penetrate the volcanic rock as rapidly as limestone and surface water gathers in the form of rivers, streams and wetlands. Surface drainage from watershed areas can be directed into reservoirs such as the existing Fena Reservoir.

- . Anyone, including government agencies, intending to clear or grade land shall obtain a required permit from Public Works and clearance from GEPA to ensure adequate provisions have been made for erosion and sedimentation control;
- . Open space and environmentally sensitive recreational or agricultural uses shall be encouraged in aquifer recharge and watershed areas. Urban-type uses are discouraged in such areas unless it is determined that such development will not adversely affect water quality or quantity;
- . Open space shall be maintained in sinkholes and natural low-lying basins. (Open space is defined as essentially undeveloped natural areas, strategically located where most needed to exclude intensifying urbanization patterns.) In areas where development is already present in low-lying basins and sinkholes, such development shall be permitted as a non-conforming use so long as it conforms to GEPA Water Quality Standards;
- . Field farming, hydroponics and aquaculture, as agricultural uses, shall be monitored and planned such that nutrient discharges into surface waters or through seepage into groundwater supplies shall not produce adverse effects on water quality;
- . Livestock slaughterhouses and industrial land uses (involving petroleum and chemicals) shall be discouraged as uses over aquifer recharge areas;
- . Within proposed areas of intensive residential development within primary aquifer recharge areas, the surface drainage shall not be significantly altered; and ponding basins shall be required to ensure that surface development does not adversely affect rainwater recharge of groundwater supplies.

Performance Guidelines. A general performance guideline for water resource use is that all existing all proposed water-related development shall adhere to the Water Quality and Erosion and Sedimentation Control Standards established and enforced by the Guam Environmental Protection Agency. All agencies and private developers shall support the objective of eliminating point source and non-point sources of severe pollution. Specific performance guidelines are listed below.

- . All agencies and owners of residential and commercial buildings or sewage treatment facilities shall obtain required permits from GEPA and Public Works for septic tank installation of sewer connection with plans so that construction or connection will not adversely affect water quality;
- . All agencies, individuals and corporations wishing to drill or operate water wells shall obtain a Well Drilling License, Well Drilling Permit, and Well Operating Permit from GEPA to protect groundwater from contamination or overpumpage by unskilled personnel or improper construction and equipment;
- . Anyone, including GovGuam, selling, distributing or importing pesticides shall obtain a required Pesticides Dealer's License and Registration of Pesticides to ensure competency of all persons dealing in pesticides and that knowledge of imported pesticides products is monitored by EPA;
- . Anyone, including GovGuam, intending to apply or use restricted pesticides shall obtain a Restricted Pesticides Applicator Certification, as required by GEPA, to ensure safe usage of pesticides which are classified as restricted;
- . All government agencies, individuals and corporations planning to develop or maintain a dump on private or public property shall obtain Authorization for Solid Waste Disposal from GEPA to ensure health, sanitation, land-use compatibility and prevention of solid waste leachates from contaminating freshwater resources.

Presently, PUAG, GEPA, USGS and the Military all cooperate in the management of water resources. The U.S. Army Corps of Engineers constructs reservoirs and defines watershed areas. Proposed watersheds and reservoirs are depicted on Community Design Maps are conservation uses. GEPA is the primary agency involved in the enforcement of water quality performance standards and erosion control standards which are directly related to water quality. Within GEPA, the recently enacted Safe Drinking Water Act (P.L. 14-90, Dec. 19, 1977) provides primary drinking water regulations, and provides for promulgation of secondary drinking water regulations. It is not primarily designed to actually protect the aquifer or water source itself, but rather the distribution, storage, and treatment systems.

Group (E). Unique Terrestrial Ecosystems (See Map No. 9, Appendix 6)

Terrestrial Pristine Ecological Communities

Synopsis. These are the most untouched representatives of the specific habitats known as the limestone forest, ravine forest, savannah, coastal strand, and wetlands. Though each of these areas has its own performance standards, the most scientifically valuable representative requires a more strict control of permissible uses in order that it be preserved for the study of its unique ecology. Ecology is the relationship between the plants, animals, and natural features of an area. Being the least developed, they are usually the most aesthetically pleasing or beautiful examples of the different natural communities. Pristine ecological areas often contain the highest incidence of endangered and threatened species of plants and animals. These are species that are in immediate danger of extinction or would reduce to a critically low number as adverse land uses were permitted to operate. The specific sites together with flora and fauna identification appear in a CZM study "An Ecological Survey of Pristine Terrestrial Communities on Guam" completed in August, 1977.

Wildlife Refuges

Synopsis. Pristine ecological communities, delineated through ongoing research, often overlap with other larger, unique wildlife habitats. As pristine areas are more specific in location, the larger Government of Guam Conservation Areas are maintained for the preservation of large tracts of wilderness land. They are precisely delineated in the Community Design Element as wildlife refuges.

Proposed Critical Habitats

Synopsis. Even more expansive are critical habitats for more resident birds. The majority of bird species on Guam are threatened or endangered and the Division of Wildlife and Aquatic Resources has delineated critical habitats for possible consideration by Federal Fish and Wildlife regulations. Critical habitats are the natural areas where particular species find the requirements for survival and protection from predators. The larger areas include much of the limestone forest around the northern coastal clifflines. The Fena Reservoir area, Orote Peninsula, and Cocos Island are additional critical habitats. For example, Orote Island is the only nesting site on Guam for the brown booby and the ironwood trees on Cocos Island provide the nesting site for white fairy terns.

Limestone Forest

Synopsis. The limestone forests of Guam are so named because they grow in minimal soil upon the northern limestone plateau, Orote Peninsula, and areas of the southeast coastline. They are a finite resource as land development has cleared many forested areas. Unlike mainland forests, reforestation is not possible because introduced "invader" species of vegetation prohibits the re-establishment of native flora. Limestone forests are characterized by large trees that provide a shaded canopy over understory shrubs, herbs, and lianas. Numerous epiphytic ferns, mosses and orchids cover the rocks and larger trees. Due to periodic typhoons, the limestone forest never reaches a climax stage of maximum growth potential.

The importance of forested areas is multiple when weighing the public benefits of preservation and developmental needs. They provide a wildlife habitat for many unique and endangered species of plants and animals. They also provide an area for collection of medicinal plants and edible animal life such as the popular coconut crab. As an aesthetic resource, they are value for hiking, nature observation and scientific investigation. Of less visibility, but not of less importance, much of the limestone forest lies over areas of the lens system as surface runoff is negligible and natural areas inhibit the infiltration of pollutants that are associated with urban development.

Performance Guidelines. The performance guidelines for the above described types of unique terrestrial ecosystems are kept at a general level because the degree of preservation is different depending on the nature of an individual area and many areas overlap.

- . As unique, fragile, and valuable wildlife habitats, these are generally reserved for limited recreational or scientific uses. Urban, rural (medium-high density) uses will not be encouraged.
- . Medium-high density and agricultural uses, adjacent to these areas, must be sensitively planned to avoid spillover impacts. It is recommended that an open-space buffer zone be maintained adjacent to pristine ecological communities.
- . Infrastructure development within pristine communities and wildlife refuges shall be limited to minimal access roads, up to but not entering, the area. Transmission lines, lighting, signs (other than trail identification markers), and any off-road vehicular traffic (jeeps, cars, trucks, motorcycles) shall be prohibited within pristine communities and wildlife refuges.
- . Disposal of solid waste (dumping and littering) within all unique terrestrial ecosystems shall be prohibited. Planned placement of trash receptacles along hiking trails is encouraged.
- . Discharge of pollutants into all water resources shall be prohibited in all unique terrestrial ecosystems.
- . Plant, animal, or rock collection shall be prohibited in pristine ecological communities and wildlife refuge habitats, except for scientific and educational purposes.
- . Collection of plants for medicinal, food, or other purposes is permitted as a cultural activity within areas of the limestone forest and proposed critical habitats that are not protected as government-owned wildlife refuges.
- . Hunting within critical habitat areas and the limestone forest shall adhere to regulations established and enforced by the Division of Aquatic and Wildlife Resources and shall not be permitted within pristine ecological communities or wildlife refuges.
- . Hiking trails, steps, and benches, etc, shall be planned and maintained to discourage the proliferation of excessive trails and off-trail hiking within pristine ecological communities and wildlife refuges.

- Reforestation and related restoration activities are encouraged in erosion-scarred or other damaged areas of natural terrain that are within unique terrestrial ecosystems.

Wetlands (See Map No. 10, Appendix 6)

Synopsis. Wetlands are unique components of the island ecosystem. They are the swamps, marshes, mangroves, and river valleys. These are areas that are constantly inundated with water and provide a wildlife habitat for aquatic species of plants and animals. Many wetlands also act as a source of freshwater supply or assist in recharging the aquifer. They primarily provide a nursery ground for many juvenile species of animals until the organism reaches a stage of growth when it can venture into another ecological niche. Wetlands are one of the most biologically productive areas on the island. They provide aesthetic scenery and are valuable locations for scientific research or sensitive aquaculture development. In areas at the coast, there is a transition from freshwater to saltwater wetlands with zonations of vegetation delineating the changes in salinity. A diversity of plant life is found in these areas, many of which assist in maintaining the balance of the habitat, supply nutrients to the water, and have ethnobotanical value as food, medicine, or material culture. Wetland areas are often in floodplain areas and absorb excess overflow from rivers during periods of excessive rainfall. The mangrove fringe, represented in only two major locations on Guam, is not only an ecological habitat, but also functional as a shoreline stabilization mechanism which prevents erosion during periods of stormwave inundation. Mangroves are particularly resistant to typhoon force winds. Wetlands and Estuarine Studies include Part II of the CZM "Atlas of the Reefs and Beaches of Guam," and "Inventory of Wetland Vegetation in Guam, Tinian, and Saipan, Mariana Islands." More specific data on wetland productivity will be the subject of one section in the Reef Atlas, Second Phase Study.

Suggested Performance Guidelines.

- The acreage of a wetland shall not be reduced by filling it at the edges or dumping material over submerged grass beds and the flow of water shall not be altered, by blocking or channelizing rivers or tidal flow, unless it is proven by the developer that such activity is necessary for the management of hazard areas or economic well-being of the people of Guam and no alternative measures are available.
- The water quality in wetlands shall not be lowered by the introduction of adverse pollution, nor should the bottom be covered with harmful sediments.
- The nutrient supply within wetland habitats shall not be altered by removing large amounts of productive plant life.
- The removal of endangered and threatened plants and animals shall be restricted. Particularly, mangroves, fringing the shoreline shall not be cleared to enhance visual access as they assist the shoreline stabilization and are only represented in two main locations on Guam. They are essential as nursery grounds for juvenile aquatic species of animals.
- Proposed development, adjacent to wetlands, shall adhere to GEPA water and erosion control standards and be compatible with the nature of the wetland habitat.

- Proposed recreational or cultural developments within wetland areas shall be permitted, after thorough planning for economic feasibility, complete funding and environmental assessment prove that such development will enhance the wetland habitat and benefit the people of Guam rather than cause irreparable damage to the finite amount of wetland habitat which is represented on Guam.
- Aquaculture developments in wetland areas shall be permitted only with an approved EIA, adherence to applicable GEPA standards, Division of Aquatic and Wildlife Resources regulations, approval of the U.S. Army Corps of Engineers (federal jurisdiction over defined wetlands), and responsible planning to ensure that the development will not cause irreparable damage to the ecological complexity of the wetland area.

Group (F). Unique Marine Ecological Communities

Marine Pristine Ecological Communities (See Map No. 11, Appendix 6)

Synopsis. Marine Pristine Ecological Communities include a typical representative of each of the major marine ecological community on Guam, including: estuaries, fringing reefs, barrier reefs, patch reefs, barrier reef channels, fringing reef channels, mangrove swamps, seagrass beds, cut benches and submarine cliffs. Each of the selected representative areas has retained its natural character or successfully re-established it after disturbance. This natural character includes biotic, and to a lesser extent abiotic, components of scientific, educational and aesthetic value. Of specific interest are the preservation of the natural ecological stability through diversity and the protection of critical habitats for rare, uncommon, threatened or endangered species. Although many of these areas are included in the coral reef category of APC's, these most valuable areas require a stricter control of permissible uses which will be governed by particular performance standards that can be developed after analysis of a study by the University of Guam's Marine Laboratory completed in October, 1977, "Survey and Species Inventory of Representative Pristine Marine Communities on Guam."

Preliminary Performance Guidelines.

- Coral harvesting permits shall not be given for harvesting in these areas.
- Permissible dredging and filling and developments shall not occur within, or adjacent to these areas such that damage would occur.
- Recreational use may be restricted as needed to protect these areas and their resources.
- Addition of pesticides, petroleum product bleach and other toxic substances shall not be allowed in the waters surrounding living coral.
- Removal of coral is not allowed except under permit and supervision of the Aquatic and Wildlife Resources Division of the Government of Guam.
- Proposed developments adjacent to living coral areas shall be compatible with the nature of the coral habitats.
- Traditional and existing legal uses of the coral reef may continue, if not conflicting with any of the above performance guidelines.

- Anchoring of boats shelling, fishing with spears, nets, lines, may have to be controlled, if needed, to retain the natural character of these areas.

Group (G). Cultural and Recreational Areas

Scenic Vistas

Synopsis. Aesthetics or beauty is subject to varying interpretations, however, the cultural learning process causes most people to generally agree on the scenic value of different vistas. The maintenance of visual access or a clear view of different geographic areas is important so that the overall beauty of Guam is preserved. Visually pleasing views enhance the quality of life for the resident and promote tourism as a valuable facet of the island's economy. Scenic vistas include unrestricted overlooks and ground level views of both developed and undeveloped areas of the island. Presently, the concept of scenic vistas needs further detailed study if certain specific locations are to be subject to APC performance standards. For this reason, scenic vistas should be considered for possible future designation.

Performance Guidelines. Compliance with performance guidelines for other areas of particular concern will naturally protect natural scenic vistas, as areas such as slopes in excess of 15%, limestone forests, wetlands, and pristine communities are often components of a scenic vista. In scenic areas of urban development such as resort areas and subdivisions, building codes and zoning regulations can effectively protect and enhance control standards also directly affect scenic quality. General guidelines, which must also be considered, are listed below.

- Structural and infrastructural development in natural scenic areas shall be planned to compliment existing features or form a natural continuum so that aesthetic quality is enhanced rather than degraded. Fences, transmission lines, towers or other forms of tall infrastructure shall be planned as not to obstruct visual access of natural scenic vistas.
- Particular concern shall be given to sensitive siting of structures within the Seashore Reserve which can potentially interrupt the homogeneity of views from either the shore or more distant overlooks from which the skyline can be interrupted by improper siting of structures such as tall, flat-topped buildings.
- Public access to scenic overlook and shoreline areas shall be, wherever feasible, kept unrestricted.
- The amount of litter, due to abandoned cars, beverage containers and other solid waste is nearly twice that reported in other parts of the United States. Dumping into authorized sanitary landfills only shall be strictly enforced by GEPA in conjunction with the litter laws enforced by DPS.
- Abandoned, dilapidated housing and other structures represent both a health hazard and disrupts aesthetic quality and shall be removed pursuant to the requirements of the Department of Public Health and Social Services.

H. Other Areas of Particular Concern, Areas of Preservation and Restoration

Other Areas of Particular Concern

- 15 CFR 923.23 (a) states that Guam may designate two additional categories of APC's including "specific areas that are known to require additional special management, but for which additional management techniques have not been developed or necessary authorities have not been established at the time of program approval; (and) a process for future designation of APC's after program approval."

Areas of Preservation and Restoration

Section 306(c) (9) of the CZM Act requires for program approval, that

"the management program makes a provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological or esthetic values."

- 15 CFR 923.24 further states that to meet this requirement, states must "describe the criteria by which areas can be designated" as APR's, and "describe the procedures by which such designations can be made."

Discussion

All requirements relative to both Other Areas of Particular Concern, and Areas for Preservation and Restoration, are addressed within the mechanism proposed for the regulation of APC's. This mechanism includes a designation process for future APC's and areas for preservation and restoration. The guidelines for development for each designated APC, priorities for use within designated APC's (Figure 5), and the notation on the comprehensive list of potential APC's of those needing additional study, (Page __), indicate the management strategy proposed.

Areas for preservation would include "no development" designations for :

- Terrestrial Pristine Ecological Communities
- Critical Habitats
- Marine Pristine Ecological Communities
- Scenic Vistas

Areas for Restoration (and/or future APC) includes:

- . Urban waterfront areas, (especially Umatac, Merizo, and the Marine Drive Section from Cabras Island to Saupon Point).

Future APC's could include:

- . Urban Waterfront Areas
- . Flood Hazard Zones
- . Seismic Fault Zones
- . Karst Topography
- . Scenic Vistas
- . Major Public Facility Sites

Further discussion of the actual APC mechanism follows.

I. Final Designation, Regulation and Management of Areas of Particular Concern

Requirement

To meet the requirements of subsections 305 (b) (3) and (5) ^{of the CZMA} relative to Areas of Particular Concern, section 923.21 (a) (3) of the rules and regulations require a program to "describe how the management program addresses and resolves the concerns for which areas are designated."

Discussion

Bill 233 contains the mechanism, authorities and process for final designation of Areas of Particular Concern initially designated by the Coastal Management Land-Use Program:

Section 68012 .

- (a) In order to encourage development consistent with the capability or suitability of certain geographic areas to support such development, the (Central Planning Council) may designate areas of particular concern within any land use district. Areas of Particular Concern may be designated according to one or more of the following characteristics:
 - (1) Areas of significant topographic or geologic resources for agricultural, commercial, or industrial development.
 - (2) Areas of significant hazard if developed.
 - (3) Areas that protect, maintain or replenish Guam's land, water or other natural resources.
 - (4) Areas where developments and facilities are dependent upon access to coastal waters or areas of urban concentration where shoreline utilization or water use is highly competitive.
 - (5) Areas proposed for development on a scale likely to have an economic, social, environmental, or other impact or islandwide significance.
 - (6) Areas of high natural productivity or unique fragile or natural habitats.
 - (7) Areas of substantial cultural or recreational activity and/or opportunity.
- (b) An area of particular concern may include any contiguous area significantly affected by, or having a significant effect upon an area of particular concern.

Comment

Initial designation including area identification, technical data base, mapping at 1:4800 scale, 1:25,000 scale and maps appearing in Appendix 6, has been completed. Upon passage of Bill 233, the APC's listed within the preceding section will be submitted for final designation according to provisions of section 68013 following. In addition, it should be noted that characteristics (4) and (6) provide for the requirements of 923.24 as mentioned on page ____ of this section. Areas for "preservation" include pristine (marine and terrestrial) ecological communities which fall

Under the general characteristic "unique fragile or natural habitats".

Areas for "restoration" include, in particular, urban waterfront areas, which are presently categorized as a future APC needing further study and which most definitely are areas in need of restoration for "conservation, recreational, ecological, and aesthetic values," (306) (c) (9), CZMA.

Section 68013. Designation of Areas of Particular Concern.

The Council shall prepare proposals for tentative areas for particular concern with sufficient maps identifying such areas. Such proposals and accompanying maps shall be presented for review and comment at public hearings, notices of which shall be provided in a newspaper of general circulation at least fifteen (15) days prior to the hearing dates. Such notices shall indicate the time and place at which the tentative proposals and maps may be inspected prior to the hearings.

All comments relative to the tentative proposals and maps shall be submitted to the Council no later than fifteen (15) days following the final public hearings concerning such times.

Upon review of such comments, the Council shall no later than fifteen (15) days, nor later than thirty (30) days, following the date of a final public hearing concerning one or more such proposals, adopt a final designation of such areas of particular concern with accompanying maps. Such designations and accompany maps shall be transmitted to the Governor, for final approval or disapproval. Upon final approval by the Governor, such areas of particular concern shall be recorded on official maps of a scale no less detailed than 1:25,000.

Comment

While maps and supporting technical support have already been completed in the first two years of program development, this section provides the mechanism for final public review as well as Council and gubernatorial approval. This approach provides an additional opportunity for public participation, although the concept and boundaries of such areas have been presented in over 20 public hearings dealing with the overall Coastal Management Land-Use and community design aspects of the Comprehensive Development Plan.

Section 68014. Addition and Revision of Areas of Particular Concern.

The Council may propose additional areas of particular concern or revise those previously adopted through public hearing and approval procedures outlined in Section 68013 of this title for designation of such areas.

Comment

Section 68014 addresses the need for provision of a mechanism for designation of future designation of APC's as required in part 923.23 (a) of the NOAA rules and regulations. This provision is self-explanatory.

A major emphasis of the Coastal Management Land-Use Program has been the avoidance of a multi-layer bureaucracy of overlapping controls. The wide scope of the APC

"generic" designation must take into account the development of methods of APC control other than the CZM approach. For example, Flood Plains are not well regulated at present. After final designation of such areas as an APC, it is quite possible that a "flood zone" could be established under the zoning code. In such case, the APC designation could safely be removed since the zoning review mechanism would provide adequate controls over such development.

Section 68015 Development Standards for Areas of Particular Concern.

- (a) No later than ninety (90) days following final approval and recordation of an area of particular concern as described in Section 68013 of this title, the Council shall prepare such tentative standards and guidelines as determined necessary to evaluate, promote, and assure desirable development practices within that area of particular concern designated by the Council. Such standards may include descriptions of unacceptable uses or practices within the respective areas.
- (b) Public hearing and approval procedures for adoption of such tentative standards and guidelines shall be outlined for approval of tentative district development standards in Section 68011 (b), of this title.
- (c) Revisions or additions to such standards or guidelines may be adopted by the Council as it determines necessary. Public hearing and approval procedures for adoption of such revisions or additions shall be as outlined in Section 68011(b) and (c) of this title for adoption of revisions to district development standards.
- (d) Any development within an area of particular concern for which a building or grading permit is required shall require approval by the Land Use Commission before issuance of such permit. No building or grading permit shall be issued within an area of particular concern without approval of the Commission. The Commission shall approve only those permits which will result in development not incompatible with or contrary to those policies, standards or guidelines for the respective areas of particular concern as outlined in this title or as adopted by the Council.
- (e) The Commission may require submission and approval of final site plans for any development requiring issuance of a building or grading permit within an area of particular concern in order to assure its compliance with applicable development standards or guidelines.

Discussion

This section provides for the development and implementation of the actual regulatory performance guidelines or standards for designated areas of particular concern. After adoption of the final designation maps, such guidelines and standards shall be subject to public review and comment. The Land-Use Commission will have the final decision as to the suitability of such development, including final site plan submittal prior to permitting any proposed use within a designated APC.

The proposed mechanism for overall regulation of APC's provides for resolution of conflicts should two or more sets of applicable standards apply, and appear to contradict one another.

If a proposed development, because of its location, falls within the jurisdiction of more than one set of applicable standards or guidelines, the development shall be subject to the standards established for the area according to the following priority:

(1) Area of Particular Concern, (2) Seashore Reserve, (3) District Development Standards or Guidelines. Where a conflict in standards cannot be resolved by the Commission through the application of priorities, the Commission shall, by rule, determine the appropriate applicable standards.

E. ORGANIZATION AND AUTHORITIES

1. Principal Authorities for Agency Responsibilities

Section 305(b)(4) of the CZM Act requires that:

"The management program for each coastal state shall include * * * (4) An identification of the means by which the state proposes to exert control over the land uses and water uses referred to in paragraph (2), including a listing of relevant constitutional provisions, laws, regulations, and judicial decisions."

In addition to identifying these means of control and listing them accordingly, Section 306(d) of the CZM Act requires that the management programs demonstrate that the state "has authority for the management of the coastal zone in accordance with the management program." Section 923.41(c) of the 306 regulations, in accordance with Section 306(d) of the Act, indicates that this authority must include the ability to:

1. administer land and water use regulations in conformance with the policies of the management program;
2. control such development as necessary to ensure compliance with the management program;
3. resolve conflicts among competing uses; and
4. acquire appropriate interests in lands, waters, or other property as necessary to achieve management objectives.

In the previous discussion concerning how the management program deals with various land uses, most of the major controls over such uses were identified. Viewed from the aspect of authorities and organization, rather than uses and policies, responsibility for development, implementation, and enforcement of various aspects of Guam's Coastal Management Program is shared primarily by five major agencies:

1. Bureau of Planning
2. Department of Land Management
3. Department of Parks and Recreation
4. Guam Environmental Protection Agency
5. Department of Agriculture

The authorities and principal management activities of the affected Territorial agencies are summarized in Table 8, and detailed in the following text. The duties of other Territorial agencies whose responsibilities affect coastal resources are described briefly in Chapter II, Section B-7.

a. Bureau of Planning--Central Planning Council

The Bureau of Planning, as staff to the Central Planning Council, was established in 1975 to develop and coordinate overall land use, social, and economic planning activities within the Government of Guam. Public Law 12-200, Title LXV, Chapter II of the GCG, as amended by Public Law 13-89, outlines the respective responsibilities of the Central Planning Council and the Bureau.

(1)Central Planning Council

1. To act as an advisory, reviewing, and coordinating body to harmonize, improve, and assist in implementing planning activities at all levels of government.
2. To insure that the current planning programs are consistent with the comprehensive development plan and the Comprehensive Program and Financial Plan (as referenced in the Executive Budget Act) and the policies enumerated in this Chapter.
3. To adopt any rules or regulations in accordance with the Administrative Adjudication Act and exercise all other powers necessary and proper for the discharge of its responsibilities.
4. To encourage the establishment of advisory committees from the village commissioners, legislative staff officers, and the collective civic organizations, which Advisory committees will organize at their own discretion and meet on their own initiative or at the request of the Council.
5. To review all comprehensive development plan elements, as referenced in GCG Section 60020, with the assistance of advisory committees, and the Bureau of Planning, and make detailed written recommendations to the Governor, including

Table 8: Authorities for Principal Agency Coastal Management Activities

AUTHORITY	CITATION (Government Code of Guam unless otherwise noted)	ACTIVITIES
<u>Central Planning Council--Bureau of Planning</u>		
Public Law 12-200	Title LXV, Chapter II	Review and approval of all elements of the Comprehensive Development Plan and determination of consistency of certain land and water uses with Comprehensive and Coastal Management Plans.
Bill No. 233	Sections 68004, 6,11, 13-15	Review and approval of Land Use District and Areas of Particular Concern Boundaries, related development standards, and amendments thereto.
<u>Territorial Planning Commission-Seashore Protection Commission Department of Land Management</u>		
Zoning Law	Title XVIII	Review and approval of zone maps, changes, variances, conditional uses, signs, planned unit developments, appeals relating to building permits.
Subdivision Law	Title XIX	Review and approval of subdivisions, variances, lot parcelling, improvements required thereon.
Territorial Seashore Protection Act	Title XIV, Chapter V-A	Review and approval of all development within the Seashore Reserve Area.
Subdivision and Development Review Committee	Executive Order 75-2	Review of all zone changes, subdivisions and major variances.
Natural Resources Board	Sections 13251-3	Review of proposals for use, lease, or purchase of government land for commercial mining or mineral, rock or sand removal.
Government Land Sale and Leases	Title XIII, Chapters VI-VIII and XI	Sale or lease of government land.
Public Rights provisions	Title XIV, Chapter XII-B	Study of public use of land to determine ownership.
Submerged Land Permits	U.S. P.L. 93-435	Approval of development on submerged lands.
Bill No. 233	Sections 68005(d), (e),(f); 68015(d)	Review and approval of all development in Conservation Districts and Areas of Particular Concern; establishment and enforcement of zoning law in urban, rural and agriculture districts.

minority dissenting opinions, for approval, disapproval, revision, amendment or referral to specific agencies or groups for further study and review.

6. To report on the first Monday of December to the Governor or Governor-elect in an election year, a summary of the planning program and progress.

(2) Bureau of Planning Functions

1. To apply for and accept grants, loans, contributions, appropriations, and assistance from the Federal Government and from any other sources, public, or private, and enter into and carry out contracts or agreements in connection therewith, and include in any contract for financial assistance with the federal laws as it may deem reasonable and appropriate and which are not inconsistent with the purposes of this Chapter and the laws of the Territory.
2. To contract for any professional services if such work or services cannot satisfactorily be performed by its employees.
3. To conduct, or cause to be conducted, investigations, studies, surveys, research, and analysis relating to physical, human, social, and economic development of the community and to publish the results thereof.
4. To develop and recommend territorial policies to foster and promote the improvement of planning activity and development quality.
5. To prepare, or cause to be prepared in conjunction with the Comprehensive Program and Financial Plan, a comprehensive development plan (hereinafter called 'Plan'), which shall provide long range guidance for the social, economic, and physical development of the territory, and which shall contain a statement of development objectives, standards, and principles with respect to the most desirable use of land within the Territory for residential, recreational, agricultural, commercial, industrial, and other uses completely serviced by an access and circulation network and infrastructure consistent with proper protection to enhance the quality of the environment and preserve Guam's natural beauty and historical heritage.

6. To submit the plan to the Council for public hearings as provided in this Chapter.
7. To utilize to the fullest extent possible, the services, facilities, and information of public and private agencies and organizations and individuals in order that duplication of effort and expenses may be avoided.
8. To review, appraise, and make such use as it sees fit of all existing plans and those presently being prepared.
9. To develop an information system and data bank for the continued collection and storage of public information utilized in the development plan process.

(3) Relationship of the Council and the Bureau to the Coastal Management Program

It is under the authority of this comprehensive enabling legislation that the Bureau's land use planning and coastal management programs have been developed. To date, the Council's activities have been limited primarily to reviewing and approving of various elements of the Comprehensive Development Plan (CDP) prepared by the Bureau and other government agencies. The housing, transportation, recreation, growth policy, capital improvements planning, and historical preservation elements of the CDP have received Council approval. Although all elements of the CDP require legislative approval, only the recreation and historical preservation plans have received such approval. The Land Use and Community Design Plans, having been recently completed, are scheduled for Council review and approval by late March, 1978. The Comprehensive Development Plan, currently being drafted, should be completed for Council Review by July 1, 1978.

Under the proposed Coastal Management Program, through Bill No. 233, the Council assumes added responsibilities. In addition to approving the Land Use and Community Design Plans, the Council will be required to review and approve, through public hearing procedures, the initial land use district boundary map and all future revisions thereto, all proposed

development standards and amendments thereto, and all proposed areas of particular concern (APC), their development standards and future amendments. Authority for promulgation of any rules or regulations necessary to effectuate these processes is vested in the Council under Section 62013(c) of the GCG.

Membership of the Council is also the subject of legislation proposed by the Bureau through its Coastal Management section. Originally, under Public Law 12-200, the Council was to consist of seven members appointed by the Governor from heads of departments or agencies of the Government of Guam. On November 5, 1975, Public Law 13-89 was enacted by the Thirteenth Guam Legislature, amending Public Law 12-200. In amending Government Code Section 62012(a), this bill changed the Council membership to "eleven (11) members consisting of the members of the Territorial Planning Commission, two (2) to be appointed by the Governor from the heads of departments or agencies of the Government of Guam and two (2) to be appointed by the Speaker from among private citizens." Left unchanged was Code Section 62012(b) designating the Director of Planning as Chairman of Council and Code Section 62012(c) allowing Council members to be represented by designees at meetings.

Subsequently, on February 18, 1976, the Office of the Attorney General issued an opinion noting that "granting the Speaker the authority to appoint members to the Council is legislative action which violates the principle of separation of powers. Such a grant of power is invalid under the Organic Act of Guam."

Since issuance of this opinion, the Council has functioned with a combination of the original seven agency directors and interested Territorial Planning Commission members. However, because of a generally low level of participation by Commission members, Council activities have been carried out primarily by the government representatives.

In an effort to solidify the Council membership and increase participation of the general public in the land use planning and Coastal Management programs, the Bureau has submitted legislation to revise the Council's composition. Bill No. 377, if approved, would establish a nine-member Council composed of the Director of Planning, the Director of Public Works, the Administrator of the Guam Environmental Protection Agency, the Director of the Guam Housing and Urban Renewal Authority, the Director of the Bureau of Budget and Management Research, the Director of the Department of Land Management, and three citizens appointed by the Governor with the advice and consent of the Legislature. The citizen appointees would serve terms of three years. Of the initial three citizen appointees, one appointee would serve for a term of one year and one for a term of two years. In appointing the initial three citizen members, the Governor would designate which appointees would serve the one and two year terms. The Attorney General or his authorized designee would act as legal counsel to the Council. Chairmanship of the Council would remain with the Director of Planning.

The Bureau of Planning, in addition to developing various elements of the Comprehensive Development Plan and engaging in related research, participates in a number of executive level committees designed to develop and review overall governmental policies. These include the Capital Improvement Implementation and Policy Committees, the Legislative and Policy Review Committees and the Council on Executive Policy (see appendices). Additional input into agricultural program and overall economic policy planning is achieved through involvement in the Green Revolution and Economic Development Committees. Section 5601 of the GCG requires initial review by the Bureau of all projects submitted to the Lieutenant Governor as part of the A-95 Clearinghouse review process for federally funded programs.

Of particular importance to the Coastal Management Program is the Bureau's membership on the Subdivision and Development Review Committee, discussed under the following section. Through this Committee, and the Council's authority under GCG Section 62013(c) to ensure the consistency of other planning programs with the comprehensive development plan elements and policies, the goals and objectives of Coastal Management Program are continually impressed upon other agencies and programs. Policies, programs, and data developed under the Coastal Management Program are also included in development of plans and studies by the HUD 701, EDA 302, Disaster Preparedness and Social Planning Sections within the Bureau.

b. Department of Land Management--Territorial Planning Commission

The Department of Land Management, established after the institution of local government in 1953, has three major areas of responsibility:

1. The surveying of and cognizance over all government real property, Title XIV, Chapters I and XII, GCG.
2. The keeping of all land records, Title XIV, Chapter II.
3. Acting as staff to the Territorial Planning Commission, Title XIV, Chapter III.

While the completion of the government land survey, wise management of government land and maintenance of accurate land records are vital in implementing an effective system of land use management, it is the Department's relationship with the Territorial Planning Commission that is most important in effecting the Coastal Management Program.

(1) Territorial Planning Commission

The Territorial Planning Commission, so named because of its original duty to prepare the overall island master plan, is composed of seven private citizens appointed by the Governor with legislative concurrence. Its overall planning responsibilities having been transferred to the Central Planning Council and Bureau in 1975, the Commission now is primarily involved, through the Department of Land Management, in administration and enforcement of the Zoning, Subdivision, and Seashore Protection laws.

Under the Zoning law, Title XVIII of the Government Code, the Commission is responsible for:

1. Approval of all zoning maps, Section 17050, GCG.
2. Submission to the legislature of all amendments or changes in the zoning maps, Section 17627.
3. Approval of requested zone changes, Section 17600.
4. Approval of requested zone variances, Section 17501.
5. Approval of Proposed Planned Development Districts, Section 17605.
6. Approval of conditional uses listed within the respective zones, Section 17102.
7. Issuance of permits for establishment or extension of junk yards, Section 17425.
8. Enforcement of the sign regulations, Section 17400.
9. Determination of required parking space in open space areas and for off-street parking, Section 17350-2.
10. Review of agricultural impact statements in 'A' zone rezoning cases, Section 17607.
11. Review of appeals relating to building permits or Building official determinations, Sections 17500, 31055, 31062.

Under the Subdivision Law, Title XIX of the Government Code, the Commission is responsible for:

1. Approval of all proposed Subdivisions, Section 18003.
2. Granting of appropriate variances from subdivision regulations, Section 18501.
3. Requiring appropriate improvements on land acquired as part of a decedent's estate or parental subdivision, Section 18001.5.
4. Approval of proposed lot parcelling and agricultural subdivisions, Section 18201.
5. Review of prior divisions of land for lot parcelling or subdivision purposes to determine need for modification of access, lot size, or improvements, Section 18501.

The Commission is also to approve of all new street names for submittal to the legislature, Section 13209.

(2) Seashore Protection Act and Commission

In 1974, the 12th Guam Legislature enacted the Guam Territorial Seashore Protection Act, Title XIV, Chapter V-A, GCG. This Act, designed to provide a means for more intensive study and protection of the shoreline areas, referred to in the Act as the "Seashore Reserve," was then significantly amended. Because of the failure to gain legislative confirmation of the seven gubernatorially appointed members of the Seashore Protection Commission after a period of over one year from the bill's enactment, Governor Bordallo temporarily transferred the responsibilities for implementation of the Act to the Territorial Planning Commission through Executive Order 75-24. One month later, this transfer became permanent through the Legislature's enactment of Public Law 13-52, which defined the Seashore Protection Commission as consisting of the Planning Commission members. A year later, in the aftermath of Super Typhoon Pamela, Public Law 13-154 was enacted, suspending enforcement of the Building Code for a period of 90 days following any federally declared disaster and reducing permanently the Seashore Reserve area from 100 meters to only 10 meters.

Under the Seashore Protection Act, the Commission, in addition to requiring clearance for any development within the Seashore Reserve area, is to:

1. Elect a Chairman.
2. Appoint an Administrator who shall not be a member of the Commission and who shall have the responsibility for the administration of this Act under the supervision of the Commission.
3. Prepare, adopt, and submit to the Legislature for implementation the Guam Seashore Reserve Plan.
 - (a) The plan shall be based on detailed studies of all the factors that significantly affect the seashore reserve.

(b) The plan shall be consistent with all of the following objectives:

- (1) The maintenance, restoration, and enhancement of the overall quality of the seashore reserve environment, including, but not limited to, its aesthetic values.
- (2) The continued existence of optimum populations of species of living organisms.
- (3) The orderly, balanced utilization and preservation, consistent with sound conservation principles, of all living and non-living seashore reserve resources.
- (4) Avoidance of irreversible and irretrievable commitments of seashore reserve resources.
- (5) Public access for maximum visual and physical use and enjoyment of the seashore reserve by the public.

(c) The Plan shall consist of such maps, text, and statements of policies and objectives as the Commission determines are necessary.

(d) The plan shall contain at least the following specific components:

- (1) A precise, comprehensive definition of the public interest in the seashore reserve.
- (2) Ecological planning principles and assumptions to be used in determining the suitability and extent of allowable development.
- (3) A component which includes the following elements:
 - (i) A land-use element.
 - (ii) A conservation element for the preservation and management of the scenic and other natural resources of the seashore reserve.
 - (iii) A public access element for maximum visual and physical use and enjoyment of the coastal reserve by the public.

- iv. A recreation element.
 - v. A population element for the establishment of maximum desirable population densities.
 - vi. An educational or scientific use element.
- (4) Reservations of land or water in the seashore reserve for certain uses, or the prohibition of certain uses in specific areas.
- (5) Recommendations for the governmental policies and powers required to implement the planning including the organization and authority of the governmental agency or agencies which should assume permanent responsibility for its implementation.
4. Publish objectives, guidelines, and criteria for the collection of data, the conduct of studies, and the preparation of recommendations for the plan within six (6) months after its first meeting.
5. Prepare its definitive conclusions and recommendations, including recommendations for areas that should be reserved for specific uses or within which specific uses should be prohibited, which it shall, after public hearing, adopt and submit to the Legislature no later than January, 1976.
6. On or before December 1, 1975, adopt the coastal reserve plan and submit it to the Legislature for its adoption and implementation (Section 13416, GCG).

Though the Department of Land Management serves as staff to the Seashore Protection Commission, the Bureau of Planning has assumed responsibility for drafting the Seashore Reserve Plan as part of its land use planning program. Rather than attempt to develop a plan for the reduced Seashore Reserve Area (10 meters from mean high water), the Bureau of Planning has sought to amend the reduced Reserve to a more geographically defined boundary, while undertaking island-wide planning under the authorities of its enabling legislation.

Until the Seashore Reserve Plan has been completed, the Commission will continue to evaluate applications for development within the Seashore Reserve area primarily on the criteria outlined under subsection (2) and (3) of Section 13417 of the Act:

- (2) No permit shall be issued unless the Board has first found that:

- a) The development will not have any substantial adverse environmental or ecological effect.
- b) The development is consistent with the purpose and objectives of this Chapter.

The applicant shall have the burden of proof on all issues.

- (3) All permits shall be subject to reasonable terms and conditions in order to ensure that:

- a) Access to beaches, recreation, and historical areas, and natural reserves is increased to the maximum extent possible by appropriate dedication.
- b) There is no substantial interference with or detracting from the line of sight toward the sea from the territorial highway nearest the coast.
- c) Adequate and properly located public recreation areas and wildlife preserves are reserved.
- d) Provisions are made for solid and liquid waste treatment, disposition, and management which will minimize adverse effects upon coastal reserve resources.
- e) Alterations to existing land forms and vegetation, and construction of structures shall cause minimum danger of floods, landslides, erosion, or siltation.

(3) Subdivision and Development Review Committee

All permit applications submitted to the Seashore Protection Commission, and all applications for subdivisions, zone changes,

and zone variances deviating more than 10% from relevant requirements that are submitted to the Territorial Planning Commission, are reviewed first by the Subdivision and Development Review Committee (SDRC). (See Executive Order 75-1 and SPC rules adopted August 14, 1975.) Established in 1974 by Governor Camacho under Executive Order 74-6, and operating currently under the authority of Executive Order 75-2, the seven-member SDRC consists of representatives from six different Government of Guam agencies involved in land use management and planning:

1. Department of Land Management (Chairman)
2. Bureau of Planning
3. Department of Parks and Recreation
4. Public Utility Agency of Guam
5. Guam Environmental Protection Agency
6. Department of Public Works--Building Permit Division
7. Department of Public Works--Engineering Section

Each of these agency representatives reviews the above-mentioned applications to determine whether the proposed development is compatible with that agency's policies, plans, or regulations. After discussion with the applicant, the Committee's overall recommendations, including any suggested conditions attached thereto, are presented by the Department of Land Management to the SPC or TPC. The SPC and TPC do not consistently, and are not required to, abide by the recommendations presented by the SDRC. Input by the Coastal Management Section into the SDRC process consists primarily of evaluations of the proposed development's compatibility with overall land use planning policies, including the current Master Plan, the Land Use and Community Design Plans, as well as the goals and objectives of the Coastal Management Program.

(4) Compliance with Land Use and Coastal Management Plans

Though the SDRC cannot require the Commissions' compliance with its recommendations, deviations from existing land use plans and policies by the TPC and SPC are limited by other current provisions in the Code. No zone variances may be granted by

the TPC unless it finds "that the granting of the variance will not be contrary to the objectives of any part of the Master Plan adopted by the Commission or Legislature." Section 17502(d), GCG. The TPC, in reviewing Planned Unit Development applications, must find that the Plan comprises "an appropriate evolution of the Comprehensive Plan for the portion of the Territory." Section 17605(g), GCG. Approval of the Comprehensive Development Plan and the Land Use Plan will provide the TPC with more specific and consistent standards by which to evaluate proposed zoning variances, subdivisions, and Planned Unit Developments.

In TPC review of subdivision proposals, Section 18001.1 of the Code requires that "development and/or subdivision of all lands and roads shall conform to that land use or road location delineated in the latest revision of the Territorial Master Plan." Under GCG Section 18005(h), subdivisions are required by the Commission, in cases where public access is not already provided, to "dedicate land for public access by right-of-way for pedestrian travel from a public highway or public street to abutting lands below the high-water mark on any coastal shoreline, and to dedicate land for public access by right-of-way from a public highway or public street to abutting public lands in the hills and jungle so such lands shall be accessible for hiking, hunting, fruit picking, and other recreational purposes." Public Law 13-69. The SPC, in reviewing applications for development within the Seashore Reserve, must find "that the development is consistent with the purpose and objectives of this Chapter," Section 13417, GCG.

(5) Natural Resources Board

In addition to constituting the Seashore Protection Commission and serving on the Central Planning Council, the seven Territorial Planning Commission members are to also act as the Guam Natural Resources Board. Sections 13251-3, GCG. Though the Board is mandated to "study and evaluate any plan or proposal for the utilization of government land for natural

resource development or exploitation," it has never met. Though having lain dormant for the eight years of its existence, the Board may be revived under the Coastal Management Program. Projected designation of mineral extraction sites as areas of particular concern (APC) under the management program and possible requirements for TPC review of such activities under the APC development standards would mesh with the Board's current authority to require review of all proposals for the use, lease, or purchase of government land for commercial mining or mineral, rock or sand removal.

(6) Chamorro Land Trust Commission

Up until January 1, 1975, the Department of Land Management was to administer the sale and lease of government land through procedures outlined in Chapters VI-VIII and Chapter XI within Title XIII of the GCG. Use of such land for agricultural purposes was to be authorized under the granting of Agricultural Leases by the Department of Agriculture and other uses permitted through issuance of one-year long Land Use Permits. However, under Public Law 12-226, effective January 1, 1975, all available government lands were to be placed under jurisdiction of a five-member Chamorro Land Trust Commission, to whom the Department of Land Management would serve as staff. This Commission, replacing the former Land Transfer Board, was authorized to grant leases to native Chamorros for use of such lands as were determined to be 'available' under GCG Section 13503. Although under Section 13501, GCG, Commission members were to be appointed within 60 days after enactment of the new law, no members have been appointed in the two years since the law's enactment.

As noted by the Attorney General in two opinions issued November 25, 1975, the Chamorro Land Trust Commission law abolished the Department's authority to lease or sell government land under the land use permit and agricultural lease system. Therefore, such sales or leases should have ceased on or about January 1, 1975. However, because the Commission has never been formed,

the Department has continued to issue such permits under the former law, though technically lacking the authority to do so. Because the Chamorro Land Trust system may be of questionable constitutionality, and lacks any clearly identifiable vocal supporters, it may be repealed. Bill No. 217, submitted to the current Guam legislature, would appear to effect such a repeal if enacted.

(7) Additional TPC/DLM Duties

In 1973, under Public Law 12-61, the Land Records Division of the Department was directed "to conduct a study of the patterns of land ownership and of public land use on Guam in order to identify those areas where the public may be able to establish a legally sufficient claim for ownership or use thereof in a land registration proceeding instituted by either the Government of Guam on behalf of the public's right thereto or by a private citizen in derogation of the public's right thereof. The Division shall also conduct research and prepare reports with respect to such land as the Attorney General may request to assist the government's presentation in land registration cases in which the public's interest in land is being asserted." Section 13981, GCG.

Such a directive was issued on the basis of legislative findings that many land areas on Guam, including the dry sand sections of Guam's beaches and the steep slopes of the southern mountains, were completely open to public access. Such a study would assist in governmental assertion of rights in these lands in land registration cases. To date, this study has not been conducted. Its timely completion would certainly provide additional valuable information for agencies involved in land use management programs.

After transfer of the submerged lands extending seaward three miles from Guam's shore from federal to Territorial control under federal Public Law 93-435 in 1974, the Department was directed to develop a process for issuance of permits for development on these lands. Currently, the Department solicits

comments from various agencies as to the acceptability of certain development activities on these reef areas before issuance or denial of such permits. Such activities normally require Seashore Protection and Army Corps of Engineers permits as well.

Under Bill No. 233, the Territorial Planning Commission's duties are expanded to include:

1. Review of all development in Conservation Districts and Areas of Particular Concern.
2. Establishment of permitted zones and enforcement of the zoning law within Urban, Rural, and Acticulture Districts.

The Commission is also renamed the Land Use Commission to more accurately reflect its duties. Under Bill No. 377, the Commission would be removed from the Central Planning Council and represented by its executive secretary, the Director of the Department of Land Management.

The rules and regulations and enabling executive order for the Subdivision and Development Review Committee have also been redrafted by the Bureau in cooperation with the SDRC membership. Upon issuance of the executive order by the Governor and adoption, following public hearing procedures, of the rules and regulations by the Committee, the SDRC review process should be improved and clarified.

Pursuant to Public Law 14-82, enacted December 8, 1977, the Bureau of Planning and Department of Land Management have drafted rules and regulations for the new 'H' Resort-Hotel Zone. Incorporating many of the policies outlined in the Coastal Management Program, the guidelines will be applied in the Tumon Bay area, designated an 'H' Zone under Public Law 14-41, as amended, and all future H-zoned areas upon approval by the TPC.

c. Department of Parks and Recreation

The Department of Parks and Recreation was removed from its former divisional status within the Department of Commerce and established as a separate department in 1975 under P.L. 12-209. Under this enabling legislation and other laws, the Department has the following major responsibilities:

- 1) In cooperation with the Central Planning Council, establish a comprehensive program for historic preservation, restoration and presentation. Section 13985.2, GCG.
- 2) Locate, identify and preserve in the Guam Register of Historic Places information regarding prehistoric and historic sites, locations and remains. Section 13985.19, GCG.
- 3) Generally administer the Historic Preservation Laws. Title XIV, Chapter XIII, GCG.
- 4) Administer and when necessary undertake appropriate court proceedings to protect, settle and confirm all public rights and easements vested in the territory under the Territorial Beach Act, Section 13457, GCG.
- 5) Administer the Guam Territorial Park System, Section 26011, GCG; and
- 6) Formulate a comprehensive recreation policy and a long-range plan relative to the development of new recreation facilities and programs within the Territory, Section 26017, GCG.

The seven member Parks and Recreation Commission, appointed by the Governor with legislative concurrence, is established to appoint, remove and advise the Director of the Department. Section 26004-6, GCG.

Several federal agencies offer grant and assistance programs to the Territory of Guam for its recreation programs. The Bureau of Outdoor Recreation offers financial and planning assistance to Guam for outdoor recreation planning, acquisition, and development. The Department of Health, Education, and Welfare supports several programs related to outdoor recreation through financial assistance to schools and assistance to public health and welfare programs. The National Park Service supports historic preservation on Guam through its Historic Preservation Grants-In-Aid program. Fisheries and wildlife programs are supported by grants from the Fish and Wildlife Science. The Law Enforcement Assistance Administration supports youth centers operated by the Department of Parks and Recreation. The Economic Development Administration in 1977 funded \$4.9 million in park and recreation improvements.

The National Park Service has conducted several surveys of Guam and has issued preliminary plans for the Guam National Seashore and the War in the Pacific National Historic Park. Numerous areas on Guam in the Agat and Asan areas are already owned by the National Park Service in anticipation of legislation enabling creation of this park. However, the current status of proposed Guam National Seashore is in question because the National Park Service does not have an active proposal for this area.

The military on Guam manages extensive recreation facilities and handles several recreation programs. The Navy's programs are administered by Consolidated Recreation directly under Commander Naval Forces Marianas, while the Air Force operates a Moral Welfare and Recreation Branch. However, not all their areas and facilities are open to the general public.

A listing of current Guam outdoor recreation areas are listed on Table 2, Government of Guam facilities; Table 3, Private facilities; Table 4, Military facilities; and Table 5, Summary. (See Tables in Appendix 7)

Publicly owned potential recreation areas are shown on Table 6. In this table, each area is ranked by several categories. First, each area is ranked by Bureau of Outdoor Recreation classifications. These classes are:

- I. High density recreation areas
- II. General outdoor recreation areas
- III. Natural environment areas
- IV. Outstanding natural areas
- V. Primitive areas
- VI. Historic and cultural areas

Next, each area is ranked on its merits of natural beauty on a scale of one to three, one being the highest ranking and three being the lowest. The third ranking of each area is according to several categories of potential uses. Each of these is also ranked on a one to three scale. Again, one has the highest potential and three the lowest potential. No listing indicates no potential.

Finally, there is an overall evaluation. This is ranked on a scale of A, B, and C. "A" indicates the highest potential for outdoor recreation. "B" suggests a lesser potential while a "C" ranking connotes the lowest potential.

Many of the existing and potential outdoor recreation sites can readily be improved without impairing the scenic, recreation, ecological, and other significant values of the area. These values can be enhanced by the proper development of the areas in terms of pollution control, revegetation, vehicle control, and human access control. All these aspects are a concern of the coastal management program. In addition, virtually all existing facilities have suffered damage from Typhoon Pamela and need repair. A considerable amount of typhoon repair is being funded by the Federal Disaster Assistance Administration.

As of November 6, 1977, Guam had forty-six sites listed on the National Register of Historic Places. These sites are shown in Appendix 7. Additional sites are continually being nominated for inclusion as they are determined to be eligible. Guam does not presently have any sites designated as National Historic Landmarks, however. Four sites on Guam are designated as National Landmarks. These are Puntan dos Amantes, Dededo; Facpi Point, Umatac; Fouha Point, Umatac; and Mount Lamlam, Umatac. The village of Inarajan has been declared a Historical Architectural District.

Currently, Guam has one trail that may merit inclusion within a nationwide trail system. This trail, the Mt. Lamlam to Inarajan trail of seven miles in length, is neither administered nor maintained as a trail by the Government of Guam. It crosses territory, military, and private land, but is used for outdoor recreation and has great potential. Further study of this trail is anticipated.

The possibility exists that certain streams on Guam could be included in a system of wild or scenic rivers. Portions of the Pago, Ylig, and Talofofo Rivers still retain their natural state unaltered by man and should be studied for possible scenic or wild river status. Guam has several areas established as natural preserves that protect examples of the native geology and ecology. However, not all are adequately protected and more representative areas are needed. The current areas are shown on Appendix 7.

(1) Historic Preservation

The Historic Preservation laws vest the Department with a number of significant authorities, including:

- 1) The authority to condemn property when it is in danger of being sold, used or regulated to such an extent that its historical or cultural importance will be destroyed or seriously improved or is in danger of being so destroyed. Section 13985.5, GCG.

- 2) Where any violation of the Historic Preservation laws occurs, or is likely to occur, which will result in unauthorized or improper demolition, alteration, or transfer of historic property, the Attorney General, any agency of the territory, any person, partnership, corporation, association, organization, or other legal entity may maintain an action in the Superior Court for declaratory and equitable relief against the territory, any person, partnership, corporation, association, organization, or other legal entity for the protection of a historic property and the public trust therein. Section 13985.12, GCG
- 3) Whenever any public construction or improvement of any nature whatsoever is undertaken by any government agency on lands which are controlled or owned by the territory and which are sites of historic or prehistoric interest and value, or locations of prehistoric or historic remains, one per cent of the appropriation for such public construction or improvement, or so much thereof as may be necessary shall be expended by the department for the archaeological investigation, recording, and salvage of such sites or remains when it is deemed necessary by the department. Section 13985.18, GCG
- 4) Before any public construction or improvement of any nature whatsoever is undertaken by the territory, or any governmental agency or officer, the head of such agency or such officer shall first examine the Department's records and cadastral map of the area to be affected by such public construction or improvement to determine whether any site listed upon the Guam Register of Historic Places is present. If so designated, the proposed public construction or improvement shall not be commenced, or, in the event it has already begun, continued, until the head of such agency or such other officer shall have advised the Department of the proposed public construction or improvement and shall have secured the concurrence of the Department or, as hereafter provided, shall have secured the written approval of the Governor. Section 13985.19 GCG
- 5) The authority to impose a penalty of not more than \$1,000 or imprisonment for not more than 90 days, or both, if a person is found to appropriate, excavate, injure, or destroy any prehistoric or historic ruin or monument or object of antiquity, situated on lands owned or controlled by the territory without the permission of the Department. Section 13985.25, GCG
- 6) Imposing the above fine for any person who disturbs remains or objects of prehistoric or historic significance or removes such remains or objects from its site with the intent to convert the object to his own use or for the use of others. Section 13985.26, GCG
- 7) Requiring that any qualified persons, firm, or corporation desiring to conduct any type of exploration or recovery operations, in the course of which any underwater historic property or part thereof may be removed, displaced, or destroyed, first make application to the Department for a permit to conduct such operations. Section 13985.34, GCG

Additional fines may be imposed for forging prehistorical or historical objects and for the removal of such objects from private land without the owner's permission. Sections 13985.27-8, GCG.

(2) Territorial Parks

Under GCG Section 26009, the Department is to classify the following areas within the Territorial Park System.

- (a) 'Natural Preserves,' which are to remain unimproved;
- (b) 'Conservation Reserves,' which may be improved for the purpose of making them accessible to the public in a manner consistent with the preservation of their natural features;
- (c) 'Territorial Parks' or 'Community Parks,' which may be improved for the purpose of providing public recreational facilities in a manner consistent with the preservation of their natural features;
- (d) 'Territorial Recreation Facilities' or 'Community Recreation facilities,' which may be improved for the purpose of providing public recreation facilities; and
- (e) 'Historical and Pre-Historic Objects and Sites,' which shall be administered according to Chapter XIII, Title XIV of this Code.

These areas were officially reserved for public parks by the Fourteenth Guam Legislature, as required under GCG Section 26007, through P.L. 14-12.

Any persons moving or damaging any property within these parks are subject to a maximum fine of \$500.00. Section 26016, GCG.

(3) Territorial Beach Areas Act

The Territorial Beach Areas Act, Title XIV, Chapter V-B of the GCG, provides that ownership of the part of the ocean shore of Guam between mean high tide and extreme low tide is vested in the territory under jurisdiction of the Department of Parks and Recreation. The law also provides that all land subject to rights vested pursuant to the act be registered in the name of the Government or clearly set forth the existence of rights in the Government.

The Governor is also authorized and directed:

"to acquire ownership of or interests in any part of the ocean shore of Guam where such lands are held in private ownership; provided, however, the Governor shall not acquire ownership or interests in any such ocean shore if it is unregistered and frequent and uninterrupted use of the ocean shore by the public has been legally sufficient to create rights and easements in the public which are confirmed and vested pursuant to Section 13455 of the act."

Any interest in such ocean shore acquired by the Governor which is less than full ownership thereof shall be sufficient to permit the Department of Parks and Recreation to administer the interest acquired as a territory beach area. Section 134156, GCG.

For the purposes of this statute, the "Ocean Shore" is defined as:

"the land between the mean low waterline and a series of lines connecting angle points located at a distance of twenty-five (25) feet inland from the two (2) feet contour line as established and described by the U.S. Coast and Geodetic Survey. The angle points shall be so selected as to secure maximum parallelism of the twenty-five (25) feet setback line with two (2) feet contour. Section 13453, GCG.

As indicated earlier, the Department is authorized to undertake appropriate court proceedings to protect, settle and confirm all public rights and easements vested in the Territory under this act. Section 13457, GCG.

The Agana Boat Basin, conveyed to the Government of Guam by the U.S. Congress under Public Law 86-664, is also under the jurisdiction of the Department. Limited by the above law to solely civic, park and recreation purposes, a master plan for the area was completed, as required under GCG Section 47301, in 1976, Navigational aids within the basin are operated and maintained through a cooperative agreement between the Department of Public Works, Department of Parks and Recreation and the U.S. Coast Guard.

d. Guam Environmental Protection Agency

The Guam Environmental Protection Agency (GEPA) was established in 1973 under Public Law 11-191. It is responsible for territorial planning under the following federal authorities:

1. Federal Water Pollution Control Act, 33 U.S.C. § 1251 - 1326.
2. Clean Air Act, 42 U.S.C. § 1857 - 58a.
3. Solid Waste Disposal Act, 42 U.S.C. § 3251 et. seq.
4. Environmental Pesticide Control Act, P.L. 92-523
5. Safe Drinking Water Act.

The Agency is governed by a board of directors composed of nine members appointed by the Governor with legislative concurrence. The Board appoints the Director and Deputy Director of the Agency.

Through the Guam Environmental Protection Agency Act, Title LXI of the GCG, the Agency is involved in both major planning and enforcement activities. The GEPA Act is divided into the following areas:

1. Water Resources Conservation Act, Chapter II
2. Water Pollution Control Act, Chapter III
3. Toilet Facilities and Sewage Disposal, Chapter IV
4. Air Pollution Control Act, Chapter V
5. Guam Pesticides Act, Chapter VI
6. Solid Waste Management and Litter Control, Chapter VIII
7. Guam Safe Drinking Water Act, Chapter XII

The following chart outlines the Agency's programs, activities, and respective authorities.

GEPA has established inter-agency agreements with the Bureau of Planning, United States Geological Survey, and the federal Environmental Protection Agency to better coordinate planning and enforcement efforts (see Appendices 2 & 8)

The Agency is also represented on the SDRC, Capital Improvements, Economic Development and Water Resources Research Center Advisory Committees. GEPA's Air Quality, Water Quality, Safe Drinking Water and Erosion and Sedimentation guidelines

and standards will be incorporated by reference into the District and APC Development Standards provided for in Bill No. 233. GEPA also coordinates commenting of various government agencies on Environmental Impact Statements as noted in Appendix 2.

e. Department of Agriculture

The Department of Agriculture's functions, outlined under Title XIII of the GCG, include the growing of seedlings and distribution of breeding stock to farmers; quarantine and produce inspection services; renting of farm equipment; collection of production statistics; crop insurance; conservation work; and forestry development. It also carries out ground-level investigation of farmer applications for loan monies and makes recommendations on these applications to the Guam Economic Development Authority (GEDA), as well as overseeing these loans once made. The Department also administers a small farm loan scheme as well as a Farmers' Home Administration Loan Scheme involving amounts up to \$50,000 to finance a home and farm facilities.

A primary objective of the Department's Division of Forestry and Soil Resources is to encourage the planting of trees on private land. A secondary goal to provide technical assistance to the landowners so that productivity can be improved and maintained on their plantations.

The Department also supports aquaculture and extension service programs. Up until the creation of the Chamorro Land Trust Commission, the Department granted one-year leases for agriculture use of government land. Because the Chamorro Land Trust system abolished the agricultural lease program, the Department is currently without authority to issue any such future leases.

Of particular importance to the Coastal Management Program is the Department's authority to administer the game, fish, and coral harvesting regulations and to designate wildlife conservation areas. Title XIII, Chapter IV, GCG.

Under GCG, Section 12321, the Department has promulgated regulations limiting the taking of such game as deer, wild pigs, and birds, and prohibiting hunting of fruit bat. Article V, under Chapter IV of Title XIII, prohibits the

removal of live coral out to depth of ten fathoms except through permits issued by the Department. Both Conservation Officers within the Department and Peace officers are authorized to enforce the coral harvesting law. Also regulated under this Article is the taking of fish with nets. No catching of seasonal fish is permitted within the designated Conservation areas. Inadequacies in the authority and enforcement of the coral harvesting laws are discussed more fully the The Extent of Coral, Shell, and Algal Harvesting in Guam Waters included in Volume I of the Coastal Management Program Technical Reports.

Public Law 13-83, enacted October 27, 1975, attempted to establish authority for the Department to protect certain endangered species pursuant to the Endangered Species Act of 1973, Public Law 93-205. However, this law has been found insufficient to address the requirements of the federal legislation and is the subject of proposed amendment through Bill No. 370. Initial reaction to the amendments has been somewhat cool as a result of the inclusion of a local delicacy, the fruit bat, on the endangered species list. Hunting of the hawksbill turtle is prohibited as a result of its inclusion on the U.S. list of Endangered Species. Other flora and fauna proposed for inclusion on the list of locally endangered or threatened species are included in a list prepared by the Endangered and Threatened Species Committee of Guam. (See Appendix 9)

Under Article III, of Chapter IV, the Department has designated five wildlife Conservation Areas, in which the taking of any plant or animal life is prohibited. These areas, designated on Map No. 11 in Appendix 6, are prime candidates for designation as areas of particular concern.

Also under the authority of the Department is the administration of the Guam Land Conservation Act, Chapter VII, Title XIV of the GCG. This Act, which has never been implemented by the Department, authorizes the establishment of

Agricultural Preserves. Use of land within such preserves is restricted, by contract with the government, to the following activities, depending on the nature of the land:

1. Recreational use, defined as the use of the land by the public, with or without charge, for any of the following: walking, hiking, picnicking, camping, swimming, boating, fishing, hunting, or other outdoor games or sports for which facilities are provided for public participation. Any fee charged for the recreational use of land as defined in this subdivision shall be in a reasonable amount and shall not have the effect of unduly limiting its use by the public.
2. Open space, defined as the use or maintenance of land in such a manner as to preserve its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide essential habitat for wildlife.
3. Agricultural use, defined as use of land for the purpose of producing an agricultural commodity for commercial purposes.

Section 12603 under this Act specifically sites the following areas for inclusion within such preserves:

1. Land devoted to recreational use.
2. A wildlife habitat area which is a land or water area designated by the department as an area of great importance for the protection or enhancement of the wildlife resources of the territory.
3. A submerged area which is any land determined by the department to be submerged or subject to tidal action and found by the department to be of great value to the Territory as an open space.

Proposed agricultural preserves are to be submitted to the Territorial Planning Commission for review before final designation.

Under Article V of this Act, three policies relative to the location of public improvements within such preserves have been established:

1. It is the policy of the Territory to avoid, whenever practicable, the location of any territorial public improvements and any improvements of public utilities, and the acquisition of land therefore, in agricultural preserves.
2. It is further the policy of the Territory that whenever it is necessary to locate such improvement within an agricultural preserve, such improvement shall, whenever practicable, be located upon land other than land under a contract pursuant to this Chapter.
3. It is further the policy of the Territory that any agency or entity proposing to locate such an improvement shall, in considering the relative costs of parcels of land and development of improvements, given consideration the the value to the public of land, and particularly prime agricultural land within an agricultural preserve.

Such potential preserve areas would likely be suitable for designation as Areas of Particular Concern.

The Division of Aquatic and Wildlife Resources within the Department is currently conducting various studies on fish catches and the effects of artificially created reefs (submerged tires) on fish populations.

2. ADDITIONAL AUTHORITIES FOR PROGRAM IMPLEMENTATION

a. Powers of Acquisition

Section 306(d)(2) of the CZM Act requires that the state or territory have authority to acquire fee simple and less than fee simple interests in lands, waters, and other means when necessary to achieve conformance with the management program. Through the following existing provisions, Guam possesses such authority.

Under GCG Section 13456, of the Territorial Beach Areas Act:

"The Governor is hereby authorized and directed to acquire ownership of interests in any part of the ocean shore of Guam where such lands are held in private ownership; provided, however, the Governor shall not acquire ownership of or interests in any such ocean shore if it is unregistered and frequent and uninterrupted use of the ocean shore by the public has been legally sufficient to create rights and easements in the public which are confirmed and vested pursuant to 13455 of this Chapter; and provide further that any interest in such ocean shore acquired by the Governor which is less than full ownership thereof shall be sufficient to permit the Department of Parks and Recreation to administer the interest acquired as a territory beach area. Such acquisition from private owners shall either be by condemnation, exchange, or negotiated purchase, except that the price for such negotiated purchases shall not exceed the most recent appraised value of such property for real property taxes under Chapter IV, Title XX, Government Code of Guam, and if by exchange with government-owned property, only if the government-owned property to be exchanged has been included in the inventory of government land, or amendments thereto, provided under 13505 of the Government Code of Guam."

Under Section 13415(c) of the Guam Territorial Seashore Protection Act, the Territorial Seashore Protection Commission may:

- "1. Through coordination and assistance with other government departments and agencies, acquire lands, waters, and interests therein with the boundaries of the seashore reserve, by donation, purchase with donated or appropriated funds, by exchange for government land, or transfer. All property owned by the Territory of Guam within the seashore reserve is hereby dedicated for the purpose of this Chapter.
2. With respect to improved residential property acquired for the purposes of this Chapter, which is beneficially owned by a natural person and which the Board determines can be continued in that use for a limited period of time without undue interference with the administration, development, or public use of the coastal reserve, the owner thereof may on the date of its acquisition by the Commission retain a right of use and occupancy of the property for noncommercial residential purposes for a term, as the owner may elect, ending either (a) at the death of the owner or his spouse, whichever occurs later, or (b) not more than twenty-five (25) years from the date of

acquisition. Any right so retained may during its existence be transferred or assigned. The Commission shall have paid to such owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained by the owner."

The following sections of the Historic Preservation laws, Title XIV, Chapter XIII, of the GCG provide the following authorities relative to acquisition and condemnation:

"13985.4. Acquisitions and gifts. For the purpose of protecting or preserving any historic property, the Department may acquire, preserve, restore, hold, maintain, operate, or dispose of such properties, together with such adjacent or associated lands as may be necessary for their protection, preservation, maintenance, or operation. Such property may be real or personal in nature, and in the case of real property, the acquisition may include the fee or any lesser interest therein. Property may be acquired by gift, grant, bequest, devise, lease, purchase, condemnation, otherwise. Property may be acquired by the Department, using such funds as may be appropriated for such purpose.

The Department may receive gifts and grants from public and private sources to be used for the purposes of this Chapter.

13985.5. Condemnation. In the event that a property which has been found by the Department to be important for public ownership or assistance is in danger of being sold, used, or neglected to such an extent that its historical or cultural importance will be destroyed or seriously impaired, or that the property is otherwise in danger of destruction or serious impairment, the Department in cooperation with the Department of Land Management may acquire the historical property or any interest therein by condemnation under the laws of this territory. All condemnation proceedings shall be instituted and prosecuted in the name of the territory.

Under the Guam Land Conservation Act, Title XIII, Chapter VII, of the GCG, the Government may, through contract with the owner of the land designated as an Agricultural Preserve, provide for the exclusion of uses other than agricultural and other than those compatible with agricultural use, for the duration of the contract. Section 12614, GCG.

Because the Government of Guam lacks sufficient funds to engage in all desirable land purchases, exchange of government land for private land is a more common means of acquisition.

Article IX, Section 4, of the proposed Constitution for Guam provides that:

Guam shall have the power of eminent domain as a last resort to acquire property necessary for the accomplishment of a public purpose. Land obtained by eminent domain which is not initially used for the specific purpose for which it was obtained shall be returned to the original owner or the owner's successor as provided by law.

b. New Constitutional Provisions

The Territory of Guam recently held a Constitutional Convention in which a new Constitution was drafted to replace its current equivalent, the Organic Act, adopted in 1952. The proposed Constitution, upon Presidential and Congressional approval, is subject to ratification by the residents of the Territory. Six sections within the draft Constitution will, if left unaltered as anticipated, have some potential effect on the Coastal Management Program.

Under Article VIII, Section 3, the institution of municipal level zoning could be authorized by general law:

Section 3. Powers and structure. Powers necessary for the proper functioning of village and municipal government, including the enactment of local ordinances not inconsistent with law, zoning, and development and maintenance of local improvement projects, may be delegated to any village or political subdivision by general law....

Article XI, Section 2 provides that:

"To redress past discrimination and provide equal opportunity for the Chamorro people, special rights for Chamorros to off-shore fishing and harvesting of marine resources may be provided by law."

The entire Natural Resources Article is significant, especially in its references to the land use plan, districting, and marine resources.

Article IX. Natural Resources

Section 1. Environmental policy. The land, water, and other natural resources of Guam shall be conserved and managed to preserve scenic beauty, guarantee clean air and pure water, encourage agriculture, and provide for recreation.

Section 2. Land use. A land use plan shall be adopted by law identifying urban, rural, agricultural, and conservation areas. The uninhabited islands within the jurisdiction of Guam shall be identified as conservation areas. Public land shall not be sold but may be leased or exchanged.

Section 3. Marine resources and submerged lands. The marine resources and the submerged lands off the coast of Guam belonging to or under the jurisdiction of Guam shall be conserved, developed, and managed for the social and economic benefit of the people.

Section 4. Eminent domain. Guam shall have the power of eminent domain as a last resort to acquire property necessary for the accomplishment of a public purpose. Land obtained by eminent domain which is not initially used for the specific purpose for which it was obtained shall be returned to the original owner or the owner's successor as provided by law.

F. CONSULTATION AND PARTICIPATION

A Summary of Consultation Efforts

As base documents for the development of the Guam Coastal Management Plan, the draft Land-Use Plan, Community Design Plans and numerous technical documents were distributed among relevant Federal agencies, local agencies, local military commands, as well as to members of the 14th Guam Legislature, interest groups and staff aides for the Constitutional Convention. Extensive consultation, coordination and input provided exceptionally valuable refinement and support of these documents. A Summary of Major Federal Land Holdings in the Territory of Guam received the widest circulation of all the technical supportive documents as it provides the first comprehensive identification of federally-owned or controlled lands on Guam. The main intent of the document is to assist in the determination of the boundaries of Guam's coastal zone, however, it has been of value to other agencies' needs for a data base on federal lands. Technical documents of a specific nature, used for APC delineation, received relevant agency input and distribution. Technical documents are also made available to private developers who require base data for specific operations. All documents have been placed in the island's libraries.

The preparation of the above listed plans and numerous technical documents (listed in Appendix No. 12) involved input from the following interests.

Distribution List

Federal Government

Office of Coastal Zone Management
U.S. Department of Commerce
Washington, D.C.

Environmental Protection Coordinator
Federal Power Commission
Washington, D.C.

Studies Staff of Analysis
Department of Interior
Washington, D.C.

National Marine Fisheries Service
Southwest Region
Terminal Is., California

Division of Ecological Services
Fish and Wildlife Services
Honolulu, Hawaii

Office of Community Planning and Development
Housing and Urban Development
Region IX
San Francisco, California

National Park Service
Western Region
San Francisco, California

Federal Aviation Administration
Pacific-Asia Region
Honolulu, Hawaii

Operational Planning Staff
General Services Administration
Region 9, San Francisco, California

Planning Staff, Pacific Division
Naval Facilities Engineering Command
Hawaii

U.S. Geological Survey
Guam Office

U.S. Army Corps of Engineers
Guam Operations Office

Base Environmental Coordinator
Andersen Air Force Base
Guam

U.S. Coast Guard
14th District
Commanding Officer
Marianas Section Hdq.
Guam

Staff Office
Commander
U.S. Naval Forces
Marianas, Guam

Local Government

Office of the Governor

14th Guam Legislature
Committee on Manpower,
Resources and Economic
Development

Staff Aides
Constitutional Convention

Territorial Planning Commission

Department of Land Management

Department of Public Works

Department of Agriculture
(Division of Aquatic and Wildlife Resources)

Guam Environmental Protection Agency

Guam Economic Development Authority

Attorney General's Office

University of Guam
Water Resources Research Center

Special Interest Groups

Chamber of Commerce

Guam Realtor's Association

American Institute of Architects
Guam Chapter

Hotel Owner's Association

Guam Surfing Association

Public Utilities Agency of Guam

Department of Commerce

Department of Revenue and Taxation

Department of Parks and Recreation

Guam Housing and Urban Renewal Authority

Guam Power Authority

Guam Airport Authority

Guam Port Authority

Guam Visitor's Bureau

Guam Energy Office

University of Guam
Marine Laboratory

Guam Science Teacher's Association

Editor, Pacific Daily News

The Guam Coastal Zone Management Advisory Committee

At the inception of Guam's Coastal Management Program, it was recognized that various individuals within the Government of Guam, Federal agencies, interest groups and educational institutions possess specific area expertise relating to land and water use on Guam. An advisory committee of key individuals was formed in order to receive input pertaining to the progress of the program. Meetings, conducted on a bimonthly basis, were comprised of representatives of the below listed agencies and groups. Being a loosely-knit organization, agency participants other than regular members often attended and provided additional input or developed an awareness of program developments. Occasionally, sub-committees met to discuss specific projects. At other meetings, presentations by agencies other than the Bureau of Planning provided an overview of specific programs relating to land and water use. Agendas, minutes and attendance lists are available in the files of the Bureau of Planning. Representatives of the following groups have participated at advisory committee meetings:

U.S. Navy
U.S. Air Force
U.S. Army Corps of Engineers
U.S. Geological Survey
U.O.G. Marine Laboratory
U.O.G. Water Resources Research Center
Department of Land Management
Department of Parks and Recreation
Guam Environmental Protection Agency
Division of Aquatic and Wildlife Resources
Division of Forestry
Guam Airport Authority
Department of Public Works
Department of Education, Environmental Education
Guam Science Teacher's Association
Guam Housing and Urban Renewal Authority
Guam Landowner's Association
American Institute of Architects
Guam Society of Professional Engineers

A Summary of Public Participation and Information

Inherent in the planning process of any program is the need for public participation. The Guam Coastal Management Program recognizes that the public has a right to provide input into essential plans and be made fully aware of decisions, policies, plans, etc. as they are achieved. A general lack of public awareness of the importance of responsible land and water use was addressed through presentations, lectures, television programs, newspaper articles, brochures, newsletters, public hearings and a land-use opinion survey. These public participation and information activities are outlined below:

Presentation of the Coastal Management Program was given to the following groups:

Guam and the Ocean, a joint civilian and military forum on Guam's future use of the ocean.
Society of American Military Engineers
Guam Chamber of Commerce
Guam Board of Realtors
University Classes and Seminars
Guam Science Teacher's Association
All Related Government of Guam Agencies
The Press Club
Village Commissioners
The Governor of Guam
Guam Surfer's Association
Three Diver's Clubs
Guam Society of Professional Engineers
Hotel Owner's Association
Overall Economic Development Plan Committee
American Institute of Architects
Youth Conservation Corps
Guam EDA Program

The CZM newsletter, I Tano Yan I Tasi, (The Land and the Sea) has received the widest attention of any public participation mechanism. It is distributed to a mailing list of 250 subscribers with a remaining 750 copies being distributed through commissioner's offices and the Office of the Bureau of Planning. It is often in demand as a source material by secondary schools and the University of Guam. During the first year of the CZM Program, the newsletter was formulated and discussed general topics pertaining to land and water use and related programs. During the second year, more in-depth discussion of various areas of particular concern preceded planning notes which addressed the specifics of program developments. Major issues of the newsletter were:

Volume 2, Nos.

1. Wetlands
2. The Seashore Reserve
3. The Coral Reef
4. Historical Preservation
5. The Planning Process

6. Water Resources
7. Agricultural Land Use
8. Land-Use Plan and CEIP
9. Man and the Island Ecosystem
10. Planning Notes
11. Agricultural Leases and Water Conservation
12. Territorial Fishery Resources

In addition to newsletter distribution, three separate printings of an information brochure were made, with distribution through commissioner's offices, at public hearings and during presentations. The brochures outlined the objectives of the Guam Coastal Management Program; defined areas of particular concern, the districting process and community design, and discussed the need for public participation in the planning process.

Media programs included slide presentations and several showings of a CZM film which preceded a series of 30-minute television programs on land and water use planning and related planning issues. The series was entitled Island Interface and was produced in coordination with KGTF, the local educational television network. Programs included:

- . Introduction to Coastal Management
- . Land-Use Districting
- . Areas of Particular Concern
- . Panel Discussion on the Seashore Reserve
- . The Reefs of Guam
- . Disaster Preparedness Planning
- . GEPA 208 and CZM Water Resource Planning
- . The Bureau of Planning's Overall Planning Effort
- . Land-Use Legislation and Highlights of Previous Programs

Major newspaper articles were published in the Pacific Daily News. These were titled:

- . Our Link With the Sea
- . Umatac's Choice
- . Seashore Spectrum: the Pros and Cons of Land-Use Planning

During January 1977, the Bureau of Labor and Statistics administered a Land-Use Opinion Survey to identify certain local attitudes toward land and water use. The questionnaire was prepared by the Coastal Management Program and the results analyzed by the staff of the Bureau of Planning. A total of 931 residents were surveyed. The details of the survey can be seen in Guam Coastal Management Program Technical Reports, Volume I, published October, 1977.

CZM Public Meetings

At a series of village meetings, the Land-Use Districting Map and Community Design Plans were presented to area residents for essential public input.

The CZM Program's objectives, land-use districting system and areas of particular concern were presented as elements of comprehensive land-use planning.

The APCs were depicted on the community design plan maps. Concepts and boundaries were explained to area residents so that the maps would be fully understood and residents could perceive how planning specifically related to their property ownership and community objectives. The most valuable input was in identification of more exact boundaries of land uses on the topographic base maps. For example, area farmers provided expertise in delineation of prime agricultural lands.

Prior to each meeting, commissioners were notified of the meetings' intent, importance, time and location. Copies of meeting notices were provided for distribution by commissioners or hand-delivered to residences in outlying areas by members of the CZM staff. Depending upon the cooperation of commissioners, most meetings were also announced in schools, by loudspeaker or on church programs. Notices of all meetings were published in the Pacific Daily News. After receiving public input, maps were revised and returned to commissioner's offices for display and further comment. Map return dates were also published in the Pacific Daily News and publicized by commissioners. Minutes of all meetings were recorded and can be viewed in the files of the Bureau of Planning.

Attendance at the meetings was best in southern village communities, as compared to within the highly developed northern areas where residential subdivision, commercial development or urban renewal has already dictated long-range land use. A cross-section of local homeowners, businessmen and special interest group representatives interacted at meetings. At times, differences in opinion were voiced; however, the need for responsible planning and management of resources was generally recognized by all concerns. Major discussion expectedly centered around the APCs or unique features within individual community areas. For example, in Umatac the congested housing along the Seashore Reserve and relocation into a government subdivision dominated discussion. In Merizo, residents wished to change a rural area to urban because of increasing residential density

and infrastructure needs. In Asan-Piti, an impending urban renewal project was discussed and Mongmong-Toto-Maite residents were understandably concerned with airport sound and hazard zones. Residents of Central Guam generally expressed a desire to preserve agricultural lands in the South and farmers in Yigo were concerned with the relationship of agricultural land use to aquifer protection. Residents of Mangilao and Barrigada primarily provided input into delineation of commercial land use within urban districts in relationship to a need to stimulate a depressed local business economy in their communities.

The schedule of meetings and map review dates is shown below:

<u>Community</u>	<u>Public Meeting Dates</u>	<u>Attendance</u>	<u>Map Review Dates</u>
Asan-Piti	March 29, 1977	19	August 17 - 31, 1977
Agat-Santa Rita	March 22, 1977	30	August 17 - September 8, 1977
Umatac	February 2, 1977	90	June 6 - 20, 1977
Merizo	February 22, 1977	60	May 27 - June 10, 1977
Inarajan-Malojloj	March 1, 1977	30	July 12 - 26, 1977
Talofofo	March 8, 1977	18	August 17 - 31, 1977
Yona	March 15, 1977	15	August 17 - 31, 1977
*Central Guam	April 12, 1977 April 19, 1977 April 26, 1977	13 30 7	August 24 - September 20, 1977
Tamuning	February 15, 1977	8	March 23 - June 2, 1977
Dededo	May 3, 1977	4	August 19 - September 2, 1977
Yigo	May 31, 1977	50	June 3 - 17, 1977
Pagat	May 10, 1977	10	August 24 - 31, 1977

* Barrigada, Mangilao, Chalan Pago-Ordot, Agana, Agana Heights, Sinafana, Mongmong-Toto-Maite, and Maina

Mechanisms for Continued Consultation and Public Participation

Public participation and relevant agency and group input must obviously continue during implementation of a Coastal Management Program on Guam, as implementation will be more visible and have greater impacts than the program's planning phase. The changing nature of resource use, unanticipated impacts or radical variation in status quo assumptions such as population growth require a continued reliance upon both governmental and public coordination and input. In fact, the widest opportunity for public participation and consultation efforts should be in effect as an essential element of program implementation.

There will be a continuation of newsletters, brochures, lectures and presentations with the development of citizens', students' and developers' handbooks on land and water use. This will be the responsibility of the Coastal Management Section of the Bureau of Planning.

The Coastal Management Section will also continue to receive input from the CZM Advisory Committee. It is anticipated that the CZM Advisory Committee will take a greater role in land-use issues by reviewing development projects for federal consistency and comment in addition to the regular discussion and update on program developments. The Committee provides an ideal setting as a cross-section of federal, local and special interest group representatives are present. A more formal and structured membership will be formed with a consistent delegate from each relevant interest. A voting procedure may be needed for decision-making and comment on some issues.

Federal Coordination

Throughout the development of the Guam Coastal Management Program, a high degree of interaction was maintained with various federal agencies concerned with land and water use on Guam. Some local agencies, such as the Guam Environmental Protection Agency's administration of USEPA-funded programs, represent federal interests. The prevalent military presence on Guam necessitated a close liason with the US Navy, Air Force and Coast Guard. Federal coordination ranged from participation in public hearings to discussion in numerous formal and informal meetings. Though some interaction, such as comments on COE permit applications, were very specific in nature, all actions were reviewed in relation to CZM Program objectives and comments assisted in federal agencies' familiarization of program developments and federal consistency requirements.

<u>Date</u>	<u>Form of Interaction</u>	<u>Agency</u>	<u>Subject</u>
Mar. 17, 1975	Comments Submitted	COE	Mobil Petroleum Fuel Handling Operations
Oct. 8, 1975	Comments Submitted	COE	Shoreline Erosion Control Demonstration Site Proposals
Nov. 5, 1975	Official Comments Presented at Public Hearing	COE	Apia Harbor Study
Nov. 21, 1975	Federal Regional Council Workshop	USEPA	Misc. Environmental Topics
Jan. 20, 1976	Correspondence	GSA	CZM/GSA/PBS Coordination
Feb. 20, 1976	Comments Submitted	GEPA/USEPA	CZM/208 Coordination Draft 208 Plan
Mar. 22, 1976	Comments Submitted	GEPA/USEPA	Classification of Cocos Lagoon Waters.
Mar. 23, 1976	Comments Submitted	USEPA	Water Quality Standards
Apr. 28, 1976	Public Hearing	GEPA/USEPA	201 Wastewater Facilities-Umatac
Apr. 29, 1976	Public Hearing	GEPA/USEPA	201 Facilities Plan
May 2, 1976	Meeting	GEPA/USEPA	208 Program Review
May 10, 1976	Site Visit	COE	Project Area
July 8, 1976	Comments Submitted	GEPA/re. AF	MIS. Access Easement Across USAF Lands, Seibu Liesure Uruno Point
July 13, 1976	Meeting	GSA	Agana Boat Basin
Aug. 5, 1976	Public Hearing	GEPA/USEPA	201 Facilities Plan-Talofofo
Sept. 8, 1976	Meeting	GEPA/USEPA	CZM/208 Coordination
Sept. 23, 1976	Meeting	GEPA/USEPA	CZM/208 Coordination
Sept. 28, 1976	Meeting	GEPA/USEPA	CZM/208 Coordination
Oct. 1, 1976	Correspondence	USGS	Directory of USGS Program Activities in Coastal Areas
Oct. 1, 1976	Comments Submitted	COE	Pier Construction, Mamoan Channel, Mr. J.Q. Acfalle
Oct. 3, 1976	Meeting	U.S. Coast Guard	Coast Guard Involvement in Mapping and Permitting
Oct. 5, 1976	Meeting	National Park Service	War in the Pacific National Historic Park
Oct. 7, 1976	Meeting	National Park Service	War in the Pacific National Historic Park

<u>Date</u>	<u>Form of Interaction</u>	<u>Agency</u>	<u>Subject</u>
Nov. 3, 1976	Meeting	GSA	Functions of New GSA Office
Nov. 9, 1976	Meeting	COE	Urban Studies
Nov. 10, 1976	Meeting	GEPA/USEPA	CZM/208 Coordination
Nov. 23, 1976	Meeting	US Navy	CZMAC and Aquifer Designation
Nov. 27, 1976	Information Request	National Marine Fisheries Service	Offshore Fishery Resources
Dec. 2, 1976	Comments Submitted	GEPA/USEPA	201 Program Rural Designation, Merizo
Dec. 7, 1976	Meeting	NOAA Data Center	Deepwater Temperature Profiles for Alternative Energy Project
Jan. 4, 1977	Comments Submitted	GEPA/USEPA	Soil Erosion and Sedimentation Control Handbook
Jan. 11, 1977	Meeting	GEPA/USEPA	CZM/208 Coordination
Jan. 17, 1977	Correspondence	US Navy	AICUZ Program
Jan. 28, 1977	Comments Submitted	COE	Interim Report of Harbors and Rivers
Feb. 1, 1977	Correspondence	US Coast Guard	Federal Lands Survey
Feb. 15, 1977	Info Request	GSA	Federal Lands Survey
Feb. 15, 1977	Info Request	US Dept. of Int.	Federal Lands Survey Fish and Wildlife
Feb. 15, 1977	Info Request	US Navy	Federal Lands Survey
Feb. 15, 1977	Info Request	National Park Service	Federal Lands Survey
Feb. 15, 1977	Info Request	Federal Aviation Administration	Federal Lands Survey
Feb. 23, 1977	Correspondence	COE	Listing of Illegal Activities
Feb. 28, 1977	Public Hearing	GEPA/USEPA	Revision of Cocos Lagoon Water Classification
Feb. 28, 1977	Board Meeting	GEPA/USEPA	Board of Directors Regular Meeting
Feb. 28, 1977	Comments Submitted	GEPA/USEPA	Water Quality Standards
Mar. 10, 1977	Correspondence	US Navy OICC NAVENCOM	Destruction of Atantano Wetland, Construction of U.S. Army Reserve Center
Mar. 23, 1977	Public Meeting	Dept. of Parks and Recreation/ National Park Service	Inarajan Village Historic Architectural District Grant-in-Aid Program

<u>Date</u>	<u>Form of Interaction</u>	<u>Agency</u>	<u>Subject</u>
April 7, 1977	Comments Submitted	COE	Unauthorized Pier Construction, Merizo Shores Developers
April 7, 1977	Meeting	USEPA	CZM/208 Coordination
April 11, 1977	Correspondence	COE	Increasing Violations and Lack of Enforcement
April 12, 1977	Comments Submitted	GEPA/USEPA	Guam Safewater Drinking Act
April 13, 1977	Meeting	COE	Ugum Dam Proposal
April 15, 1977	Meeting	COE	Ugum Dam Proposal
April 22, 1977	Conference	AirForce/ GovGuam	Guam Parks and Recreation
April 26, 1977	Comments Submitted	COE	Agana Sewage Treatment Plant
April 29, 1977	Meeting	US Navy	Orote Point Ammo Wharf
May 9, 1977	Meeting	US Navy	Orote Point Ammo Wharf
May 10, 1977	Meeting	US Navy	AICUZ Program
May 11, 1977	Meeting	US Navy	AICUZ Program
May 19, 1977	Meeting	US Navy	AICUZ Program
May 19, 1977	Comments Submitted	US Navy	DEIS Orote Point Ammo Wharf
May 19, 1977	Comments Submitted	US Dept. of Interior, Fish and Wildlife	Orote Point Ammo Wharf
May 23, 1977	Board Meeting	GEPA/USEPA	Board of Directors Regular Meeting
May 27, 1977	Meeting	COE	Ugum Dam Proposal
June 1, 1977	Comments Submitted	COE	Agat Fish Habitat
June 8, 1977	Meeting	Air Force	USAF Study of Agricultural Lands
June 9, 1977	Comments Submitted	US Navy	AICUZ Program
June 9, 1977	Public Hearing	GEPA/USEPA	Sewer Construction Grant Priority List
June 9, 1977	Comments Submitted	Dept. of Parks and Rec./ BOR	Draft Guam Comprehensive Outdoor Recreation Plan
June 24, 1977	Meeting	Air Force	Federal Consistency and Land-Use Planning
June 26, 1977	Comments Submitted	COE	Ugum Dam Study
June 27, 1977	Comments Submitted	COE	Agat Small Boat Harbor
June 27, 1977	Project Advisory Committee Meeting	COE	Ugum Dam Project
July 1, 1977	Meeting	COE	Ugum Dam Project
July 1, 1977	Meeting	National Park Service	War in the Pacific Park and National Landmarks

<u>Date</u>	<u>Form of Interaction</u>	<u>Agency</u>	<u>Subject</u>
July 9, 1977	Meeting	U.S.Navy 208 Team	CZM/208 Coordination
July 10, 1977	Meeting	U.S. Navy 208 Team	CZM/208 Coordination
July 11, 1977	Comments Submitted	TPC/GHURA/HUD	Asan Community Redevelopment
July 13, 1977	Correspondence	USGS	Mapping Coordination
July 14, 1977	Meeting	GEPA/USEPA	Environmental Management Study
July 14, 1977	Public Workshop	COE	Agat Small Boat Harbor Study
July 15, 1977	Planning Meeting	GEPA/USEPA	CZM/208 Coordination
July 30, 1977	Meeting	US Coast Guard	CZM Coordination and Harbor Range Light Placement
July 30, 1977	Meeting	COE	Ugum Dam Project
Aug. 4, 1977	Meeting	US Coast Guard	CZM Coordination
Aug. 8, 1977	Comments Submitted	US Navy	Draft Report on Installation Data
Aug. 9, 1977	Comments Submitted	COE	Ugum Dam Project Hydrological Study
Aug. 11, 1977	Comments Submitted	US Navy	DEIS Orote Point Ammo Wharf, Addendum No. 1
Aug. 17, 1977	Meeting	COE	COE/CZM Coordination
Aug. 19, 1977	Correspondence	US Navy, OICC NAVFACENG	Project Review Process for Repair of Glass Breakwater
Aug. 22, 1977	Request for Comment	National Marine Fisheries Service	Draft Land-Use Plan
Aug. 22, 1977	Request for Comment	PACDIVNAVFACENGCOM Federal Planners Hawaii Office	Draft Land-Use Plan
Aug. 23, 1977	Request for Comment	GSA, Operational Planning Staff	Draft Land-Use Plan
Aug. 23, 1977	Request for Comment	US Dept. of Int. Fish and Wildlife Service	Draft Land-Use Plan
Aug. 23, 1977	Request for Comment	HUD	Draft Land-Use Plan
Aug. 23, 1977	Request for Comment	COE	Draft Land-Use Plan
Aug. 23, 1977	Request for Comment	Studies Staff of Analysis, Washington	Draft Land-Use Plan
Aug. 23, 1977	Request for Comment	USAF, AAFB	Draft Land-Use Plan

<u>Date</u>	<u>Form of Interaction</u>	<u>Agency</u>	<u>Subject</u>
Aug. 23, 1977	Request for Comment	US Navy	Draft Land-Use Plan
Aug. 31, 1977	Comments Submitted	Dept. of Land Mgt. re. Navy Lands	Agricultural Leases in Sasa-Laguas-Aguada Acres
Sept. 1, 1977	Meeting	BOR	CZM Program Discussion
Sept. 6, 1977	Meeting	COE	COE/CZM Coordination
Sept. 8, 1977	Meeting	GEPA/USEPA	Environmental Mgt. Study
Sept. 9, 1977	Conference	US Navy	AICUZ Program
Sept. 9, 1977	Comments Submitted	Staff Civil Engineer/NAS	AICUZ Program
Sept. 13, 1977	Comments Submitted	COE	Boat Basin Permit Tachog Creek, Merizo
Sept. 19, 1977	Comments Submitted	Staff Civil Engineer/NAS	AICUZ Program
Sept. 22, 1977	Comments Received	COE	Draft Land-Use Plan
Sept. 23, 1977	Comments Received	US. Dept. of Interior Fish and Wildlife	Draft Land-Use Plan
Sept. 27, 1977	Meeting	COE	Cases Against Illegal Filling of Wetlands
Oct. 5, 1977	Comments Submitted	DPW/USEPA	Wastewater Facilities Plan
Oct. 5, 1977	Public Meeting Official Comments Read	COE	Navigation Study, Apra Harbor
Oct. 11, 1977	Comments Received	US. Dept. of Interior, Fish and Wildlife Service	Draft Land-Use Plan
Oct. 28, 1977	Correspondence Received	HUD	Draft Land-Use Plan
Oct. 31, 1977	Comments Submitted	COE	Boat Ramp Construction Permit, Merizo
Oct. 31, 1977	Comments Submitted	COE	Pier Construction Application, Cocos Is Merizo
Nov. 10, 1977	Comments Submitted	Dept. of Parks and Rec. /BOR	Guam Comprehensive Outdoor Recreation Plan
Nov. 28, 1977	Correspondence Sent	HUD	Draft Land-Use Plan
Dec. 14, 1977	Workshop	GEPA/USEPA	Environmental Mgt. Study
Jan. 9, 1977	Conference (Hawaii)	HUD	Residential Development Policy Report and Land-Use Plan
Jan. 9, 1977	Comments Submitted	DPW/USEPA	Wastewater Facilities Plan

G. FEDERAL CONSISTENCY PROCEDURES

The expressed intent of the Congress, through Section 307 of the Coastal Zone Management Act, was to improve coordination among the various levels of Government with respect to coastal resource protection, planning and development. The Congress clearly recognized both the state (territorial) interest in effective, efficient resource management, and the program and regulatory authorities of the Federal Agencies over the various uses of and demands on coastal resources. The Act seeks to provide for development of a process by which the sometimes compatible, sometimes conflicting interests of State and Federal Agency missions can be accommodated. The enforceability of the mechanism is assured by an approval process that requires gubernatorial sanction on the state (territorial) level, and approval at the Federal level by the Associate Administration for Coastal Zone Management, acting for the Secretary of Commerce.

Although the subject of considerable misunderstanding the concept of federal consistency is a simple one. Federal agencies are provided the opportunity to contribute statements of national policy and administrative and resource concerns in their functional area to the process of development of state coastal policy. The state or territory, thereby, is enabled to develop its policies in the content of recognized federal agency (often national interest) concerns. The risk of jurisdictional, policy, and program conflicts should be measurably reduced by this enhanced understanding and coordination. The Federal agencies are required, therefore, to conduct their activities in a manner consistent with the state or territorial coastal management policy developed with Federal Assistance.

Individual actions by Federal agencies (Federal activities or development projects; Federal agency license or permit issuance; Federal assistance to local government) will often reflect complex combinations of factors related to general territorial coastal resource policies. If a Federal action is expected to be consistent with territorial policy, a determination of consistency or inconsistency with coastal program goals and policies is needed at sometime before initiation of the action. The procedures that follows this introduction to the consistency review process detail the mechanisms for three principal classes of Federal action. In all cases, the procedures assure notification to the lead coastal zone management agency (Bureau of Planning) of the proposed major action; however, depending on the nature of the action, the consistency review may be a Territorial or Federal responsibility. Any Federal activity significantly affecting coastal resources (other than license and permit issuance) is certified for consistency with the Territorial program by the responsible Federal agency. Federal permits or licenses affecting coastal

resources involve a consistency review by the Territory.

Although these mechanisms provide opportunity for Territorial review, comment and influence on Federal activities, Section 307(e) of the Act clearly states that nothing in the CZMA diminishes state or Federal jurisdiction or supercedes laws applicable to Federal agencies. The distinct emphasis of this section on the interpretation of the Act is coordination and informal conflict resolution. National Oceanic and Atmospheric Administration Regulation (15 CFR 930) allow the lead state agency for implementation of the coastal program (the "306 agency") to delegate its consistency review responsibility to (1) a single state agency or clearing house (2) a number of state agencies (3) Regional agencies (local, county, areawide) (4) any combination of the above with the approval of the Associate Administrator. Guam has chosen the simplest review approach: CZM Program responsibility for all consistency review. This approach simplifies procedures for applicants for permits, as well as for Federal agencies, since all consistency review is focused on the Bureau of Planning, with internal GovGuam support to BOP from the appropriate Territorial resource agencies. Simplicity also is contributed to the process through the absence in Guam of local government and, particularly, local (i.e., municipal or county) land use controls. Accommodation of local zoning would add another level of review, and potentially complicates and delays the review process. Guam's land use guidelines occurred the Territorial level only, providing the attendant benefits to the consistency review process.

In order to carry out the consistency review procedures in a consistent manner, it is necessary to provide specific guidelines for the lead territorial agency and affected Federal agencies and permit and license applicants. Procedures are included as Appendix 10 to this management program, along with a list of Federal licenses and permits subject to review.

APPENDIX 1 SUMMARY TABLES, CZM LAND-USE SURVEY

**Table 1: Regional Attitudes Concerning
Shoreline Development
(in percentages)**

Questions	North			South			Total		
	Yes	No	No Op	Yes	No	No Op	Yes	No	No Op
1. Residential Development should be strictly limited	58	28	14	54	26	20	57	28	15
2. Tourism Development should be strictly limited	46	43	11	46	31	23	46	41	13
3. Business and Industrial Development should be strictly limited	52	36	12	48	35	17	52	36	12

**Table 2: Regional Attitudes Concerning the Adequacy
of the Shoreline Protection Act
(in percentages)**

Shoreline Protection Act	North	South	Total
1. 30 feet is enough	6	11	7
2. The distance should depend on things like type of land, existing buildings, or road locations.	40	43	40
3. Should be 300 feet	26	18	25
4. No permit should be required	3	4	4
5. No Opinion	25	24	24

Table 3: A Comparison of the 1976 and 1977 Surveys
(in percentages)

Questions	1976 Totals			1977 Totals		
	Yes	No	No Op	Yes	No	No Op
1. Limit Residential Development	59	26	16	57	28	15
2. Limit Tourist Development	38	40	22	46	41	13
3. Limit Business and Industrial Development	57	27	16	62	36	12

Table 4: Regional Attitudes Concerning the
Location of Specific Land Uses
(in percentages)

Questions	North			South			Total		
	Yes	No	No Op	Yes	No	No Op	Yes	No	No Op
1. Object to hotel development near home	49	44	7	39	53	8	47	45	8
2. Object to other Resort Facilities near home	36	58	6	32	61	7	35	58	7
3. Object to a new housing development near home	27	65	8	32	58	10	28	64	8
4. Object to major business establishment near home	30	63	7	31	63	6	30	63	7

Table 5: Regional Attitudes Concerning Beach Access
(in percentages)

Questions	North			South			Total		
	Yes	No	No Op	Yes	No	No Op	Yes	No	No Op
1. Public Access should be guaranteed along the coastline	76	12	12	63	12	25	73	13	15
2. Owners of coastal property should be allowed to refuse access to adjacent beaches	30	54	16	23	61	16	29	55	16
3. Have you ever been turned away from private beaches	27	69	3	30	65	5	28	68	4

Table 6: Regional Attitudes Concerning the Quantity
and Quality of Recreational Facilities and Areas
(in percentages)

Questions	North			South			Total		
	Yes	No	No Op	Yes	No	No Op	Yes	No	No Op
1. Are there enough coastal recreational facilities now	19	72	9	14	73	13	18	72	10
2. Have you gone to a beach or park in the past month	62	35	3	72	25	3	64	34	2
3. Should there be more beaches and swimming areas	80	13	7	76	8	16	79	12	9
4. Should there be more parks and picnic areas	89	6	5	88	1	11	89	5	6
5. Should we build more walking trails and scenic overlooks	86	8	6	85	5	10	85	7	7
6. Should the government spend tax money to build marinas and boat launching ramps	48	32	20	43	30	27	47	32	21
7. Are public beaches and shorelines dirty and littered	76	16	8	72	14	14	75	16	9
8. Should military beaches be opened to the public	63	24	13	75	12	13	65	22	13
9. Should the government spend tax money to clean-up public beaches	75	14	11	59	26	15	72	16	12

Table 7: Regional Attitudes Concerning
Fishing and Fish Control
(in percentages)

Questions	North			South			Total		
	Yes	No	No Op	Yes	No	No Op	Yes	No	No Op
1. Does any member of your household go fishing regularly	29	68	3	51	45	4	32	65	3
2. Should there be laws that restrict fishing and coral collecting	45	42	13	32	58	10	43	45	12

Table 8: Regional Attitudes Toward Compensation
For Losses Incurred Through
Development Controls
(in percentages)

Questions	North				South				Total			
	NA*	Yes	No	No Op	NA*	Yes	No	No Op	NA*	Yes	No	No Op
1. Should govern- ment pay for losses	28	58	7	7	27	56	7	10	27	58	7	8
2. Should govern- ment exchange land for losses	28	59	6	7	27	59	4	10	28	59	6	7

* Those answering "no" on the question relating to compensating property owners are affected by government controls.

Table 9: Some Reasons for Not Attending
Public Hearings
(in percentages)

Why Didn't You Attend?	North	South	Total
1. Not Applicable	19	32	21
2. Waste of Time	6	10	7
3. My Opinion Would Not be Used	4	3	3
4. Inconvenient Time	25	25	25
5. Did Not Affect Me Personally	13	13	13
6. Too Technical	2	2	2
7. Other	31	15	29

Table 10: Appropriate Time for Public Hearings
(in percentages)

Questions	North			South			Total		
	Yes	No	No Op	Yes	No	No Op	Yes	No	No Op
1. Weekday Evenings	48	32	20	40	41	19	46	34	20
2. Weekends	51	31	18	52	28	21	51	30	19

Table 11: Regional Attitudes Toward
Participation Mechanisms
(in percentages)

Questions	North			South			Total		
	Yes	No	No Op	Yes	No	No Op	Yes	No	No Op
1. Do public hearings provide opportunities to voice opinions	38	24	38	35	35	30	37	26	37
2. Does your village commis- sioner know your opinion	23	65	12	32	59	9	25	64	11

Table 12: Regional Attitudes Toward Various
Participatory Mechanisms
(in percentages)

How Should Planners Identify Future Village Needs	North			South			Total		
	Yes	No	No Op	Yes	No	No Op	Yes	No	No Op
1. Ask commissioner	74	18	8	74	12	14	74	17	9
2. Ask church	36	49	15	20	57	23	33	50	17
3. Village meetings	87	4	9	79	6	15	85	5	10
4. Appoint a village representative	67	20	13	56	22	22	65	20	15
5. Ask civic groups	65	19	16	40	37	23	61	22	17
6. Form special advisory committees	73	13	14	50	27	23	70	15	15

APPENDIX 2 RELATIONSHIP OF AGENCIES UNDER CURRENT PROGRAMS

Relationship of Agencies Under Current Programs

The following chart outlines the interrelationships of various Federal and Territorial agencies involved in land use management related programs and activities. Agency abbreviations are as follows:

- . Guam Environmental Protection Agency (GEPA)
- . Department of Public Works (DPW)
- . Department of Public Health & Social Services (DPHSS)
- . Public Utility Agency of Guam (PUAG)
- . Department of Parks and Recreation (DPR)
- . Department of Agriculture (DA)
- . Department of Land Management (DLM)
- . Bureau of Planning (BOP)
- . Guam Power Authority (GPA)
- . Department of Public Safety (DPS)
- . U.S. Army Corps of Engineers (USCE)
- . U.S. Environmental Protection Agency (USEPA)

Matrix of Present Activities and Interrelationships

Legend: ⊗ Major Responsibility x Involved + Occasionally Involved Program and Activity	Agencies Involved														Comments on relationships between activities
	GEPA	DPW	DPHSS	PUAG	DPR	DA	DLM	BOP	GPA	DPS	Fire Dept	Atty Gen.	USCE	USEPA	
3. GEPA Individual Wastewater Program (cont.) • Septic tank permit • Clearance for occupancy permit	⊗ x ⊗	x x												part of building permit process part of building permit process	
4. GEPA Air Program • Stationary source construction permit • Stationary source operation permit • Motor vehicle emission enforcement • Fugitive dust suppression • Openburning • Blasting	⊗ ⊗ ⊗ ⊗ ⊗ ⊗ x									⊗					
5. GEPA Solid Waste Program • Authorized dumping sites	⊗ x														

Matrix of Present Activities and Interrelationships

Legend: ⊗ Major Responsibility x Involved + Occasionally Involved	Agencies Involved														Comments on relationships between activities
	Program and Activity														
1. GEPA Safe Drinking Water Program	⊗	⊗			x										joint with wastewater operators
• well drillers license	⊗	⊗													
• well drilling permit	⊗	⊗													
• well operating permit	⊗	⊗		x											
• supervise well sealing	⊗	⊗													
• water system operator certification	⊗														
2. GEPA community Wastewater Program															
• NPDES permit (inc. thermal)	x													⊗	joint with water operators
• Wastewater treatment plant oper. permit	x													⊗	joint with water operators
• WWP Operator Certif.	⊗				x										see no. 10
• Comments on cleaning and grading permits	⊗		x												see no. 15
• Comments on Corps navigable water permits	⊗					x									
3. GEPA Individual Wastewater Program	⊗	x		x											part of building permit process
• Sewer connection permit	⊗														

Matrix of Present Activities and Interrelationships

Legend: ⊗ Major Responsibility x Involved + Occasionally Involved Program and Activity	Agencies Involved														Comments on relationships between activities
	GEPA	DPW	DPHSS	PUAG	DPR	DA	DLM	BOP	GPA	DPS	Fire Dept	Atty Gen.	USCE	USEPA	
9. GEPA Monitoring Services Division • Certification of water analysis laboratories	⊗		x	x										x	
0. DPW Building Permits and Inspection Program • Building permit • Clearing and grading permit • Certificate of occupancy • Sign permits • Road crossing permits • Elevator permits		x	⊗		x	+			x	+		+			Part of building permit process; GEPA clearance is a prerequisite Part of building permit process
11. DPHSS • Health permits • Health certificates		+	⊗	+							+				For food establishments, barbershops, laundries, child care centers, hotels, etc. For employees of the above establishments

Matrix of Present Activities and Interrelationships

Legend: ⊗ Major Responsibility x Involved + Occasionally Involved Program and Activity	Agencies Involved														Comments on relationships between activities
	GEPA	DPW	DPHSS	PUAG	DPR	DA	DLM	BOP	GPA	DPS	Fire Dept	Atty Gen.	USCE	USEPA	
6. GEPA Pesticides Program • Pesticides registration • Pesticide dealers license • Pesticide applicators license	⊗													x	FIFRA, rules and regulations being enforced by GEPA until GEPA rules and regulations promulgated and implemented
7. GEPA Areawide Wastewater Management Planning	⊗	x	+	x	+	+	+	x				+	+	x	No permits are issued but a comprehensive water quality management plan is being developed based on input from public and indicated agencies
8. GEPA Environmental Impact Program • Federal EIA/EIS • Guam EIS	⊗	+	+	+	+	+	+						x	x	Projects involving Federal land, money or permits. Not now required.

Matrix of Present Activities and Interrelationships

Legend: ⊗ Major Responsibility x Involved + Occasionally Involved Program and Activity	Agencies Involved													Comments on relationships between activities
	GEPA	DPW	DPHSS	PUAG	DPR	DA	DLM	BOP	GPA	DPS	Fire Dept	Atty Gen.	USCE	USEPA
15. Department of Land Management (cont.) • USCE permits for dredging or fill or structures in navigable waters	x			+									⊗	DLM coordinates Government/ Guam input

Matrix of Present Activities and Interrelationships

Legend: ⊗ Major Responsibility x Involved + Occasionally Involved Program and Activity	Agencies Involved													Comments on relationships between activities
	GEPA	DPW	DPHSS	PUAG	DPR	DA	DLM	BOP	GPA	DPS	Fire Dept	Atty Gen.	USCE	USEPA
• PUAG • Wastewater grants • Wastewater loans	x x		x	⊗ ⊗										
• Department of Parks and Recreation • Historical clearance		x			⊗	+	x					+		
• Department of Agriculture • Agricultural leasing • Fishing licenses • Hunting licenses • Forest cutting permit • Animal and plant importing permit	x					⊗ ⊗ ⊗ ⊗ ⊗	x							Law repealed 1975 ⊗ USDA
• Department of Land Management • Land use permits • Submerged land permits • Seashore protection/ • Zoning change/variance • Subdivision approval/ • Variance	x x	x x		x x	x x	⊗ ⊗ ⊗ ⊗ ⊗ ⊗	x	x x						Law repealed 1975 SDRC/TPC SDRC/TPC SDRC/TPC

APPENDIX 3 SUMMARY TABLE, INVENTORY OF PRESENT AND PROJECTED COASTAL
LAND AND WATER USES

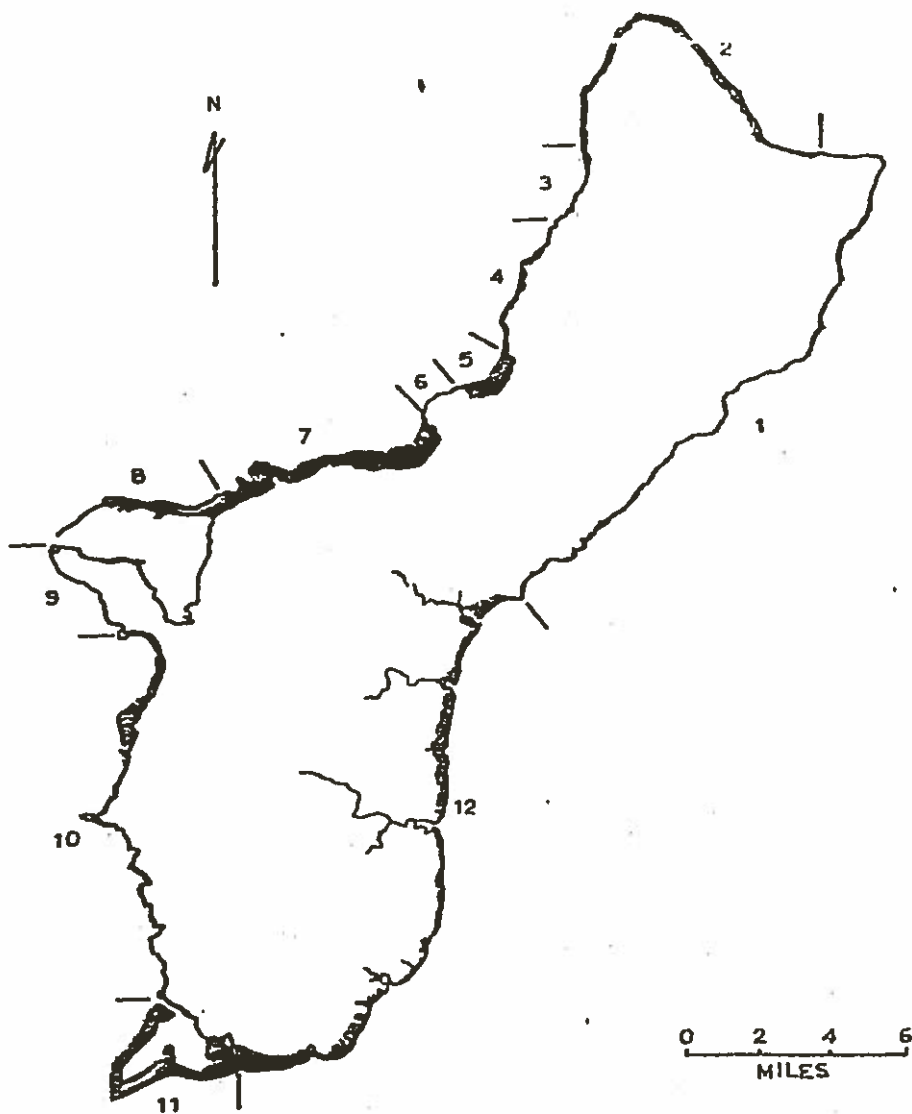


FIGURE Map of Guam showing sector boundaries and fringing and reef flat areas (shaded regions).

Source: Randall and Hollman, Coastal Survey of Guam, University of Guam, Marine Laboratory, Technical Report No. 14, Aug. 1974 P.228

SECTOR	ACTIVITY	LOCATION	COMMENT
1	Residential	Sasajyan	Kaiser Housing; roads laid out, no recent development.
1	Archaeological Site	Pagat	Preservation: 1) Access road, parking, ranger's station, shelter and trail. 2) Archaeological investigation and visitors facilities.
1	Recreation: Marbo Caves	Campanaya Point	Located on the cliffs at Campanaya Pt. on the northeast coast. Development.
2	Ammo Wharf	Tarague Channel	Proposed facilities to off load ammo barges from Orote Ammo Wharf.
2	Residential	Uruno Point	Development, high density hotel and condominium.
2	Recreation: Resorts	Uruno Point	Development.
2	Recreation: Swimming Pool	Uruno Beach	Development. Three swimming pools on the reef flat of Uruno Pt. including landfill and dredging.
2	Transp. Network: Marina	Uruno Point	Development including landfill and dredging.
2	Beach Access	Uruno Beach	Access being sought from U.S. Air Force by developer.
2	Waste Disposal: Sewage Treatment Plant and Outfall	Uruno Point	Two plants and one outfall, secondary treated effluent.
4	Submarine Cable	North of Tanguisson Power Plant	Additional cables crossing the reef flat.
4	Recreation: Park	Tanguisson Pt.	Beach development, Hilaan Beach
4	Power Plants	Tanguisson Pt.	Future expansion of power plants. Outfall designed for thermal waste.
4	Recreation Park (Two Lovers Pt.)	Harmon Village	Also called Puntan Dos Amantes. Beautification and development (portion completed), restroom, water supply, additional picnic facilities and landscaping. Further development into a regional park serving northern Guam; small camping area, additional picnic facilities, hiking, trails, shelters, and perhaps restaurant, interpretation and landscaping.

SECTOR	ACTIVITY	LOCATION	COMMENT
4	Waste Disposal: Sewage Treatment Plant and Outfall.	Tanguisson and Hilaan (near NCS)	Sewage system under constr. Centralize wastewater treatment facility with open-ocean disposal of primary treated effluent. Proposed interceptor sewer for the northern link, sewage-pump station and connection from the southern link, the wastewater treatment plant, and the marine outfall for the Northern District Sewerage System also called the Northern Integrated Wastewater System.
5	Transp. Network (Launching Ramps, San Vitores Beach)	Tumon Bay	P.L. 12-127 authorized the appropriation for construction.
5	Recreation Swimming Area (Dredging)	Tumon Bay	Dredging in Tumon Bay and Okura Hotel
5	Recreation: Beach	Matapang Beach Tumon Bay	Development: Small beach park, outdoor recreation facilities, including landscaping, picnic units, restrooms, showers, parking and utilities. Heart of the resort strip along Tumon Bay.
5	Recreation: Beach	Sirena Beach Tumon Bay, Tamuning	Development: 1) Picnic units, shelters, bathhouse, restrooms and recreation facilities, parking and landscaping.
5	Recreation: Resort	Sirena Beach Tumon Bay, Tamuning	Mandarin Hotel to develop.
5	Recreation: Beach Park	Ipao Beach, Tumon Bay, Tamuning	Beach improvement and development. Beach cleaning, pavilion, renovation park signs, park benches, barbecue-pit repairs, car barriers, open-air theater, restrooms, picnic units, shelters and parking.
7	Transp. Network: Marina	Sleepy lagoon Tamuning	Small boat basin with dredging and construction of causeway. Status uncertain.
7	Recreation: Resort	Sleepy Lagoon, Tamuning	Hotel Condominium. Status uncertain.
7	Recreation: Park	Padre Palomo Park next to cemetery, East Agana	Improvement: Adding picnic units, park benches, landscaping and enclosing an open-drainage canal.
7	Flood Control	Agana River	Creating levees and channel improvements to control flooding of the Agana River. (COE study).
7	Cultural Center	Agana Swamp	Develop multiple use recreation compatible with the value of the swamp as a unique environmental ecosystem.
7	Recreation: Park	Paseo de Susanna, Agana	Development: Additional parking, shelters and picnic units.
7	Drainage	Camp Watkins, Tamuning	Storm drainage at East Agana Bay. Expansion of existing drainage.

SECTOR	ACTIVITY	LOCATION	COMMENT
7	Transp. Network: Road Widening	Marine Drive, Tamuning and East Agana	Widening of road with right-of-way on the beach park area. Elimina- tion of some recreational area.
7	Drainage	East Agana Bay	Storm drains 5 ft. by 18 ft. for runoff from Tamuning.
7	Drainage	San Ramon, Agana	Storm drainage at Agana River.
7	Capitol Buildings	East Agana Bay	Proposed filling of reef flat to build Government buildings.
7	Transp. Network Agana Marina (under construction)	Agana Bay, Agana	Improvement of the existing Boat Basin, expansion and development of a larger marina (including land- fill and dredging). The proposed Agana Sewage Treatment Plant is also located in this area. Picnic- king area will also be provided. Project is underway.
7	Recreation Picnicking	Agana Marina, Agana	Within the Agana Boat Basin plan.
7	Waste Disposal: Sewage Treatment Plant and Outfall (under construction)	Agana Marina, Agana	Wastewater System - This plant will serve sewers from sewer systems in the center part of the island, including sewer system of Barrigada, NAS, Chalan Pago, Ordot, Yona, Mangilao, Mongmong-Toto-Maite, Tamuning, Asan, Piti, Sinajana, Agana, and Agana Heights which are under construction.
7	Recreation: Beach Park	Agana Beaches, Agana	Development: Two stretches of beach along Marine Drive, including picnic facilities, shelters, rest- rooms, parking area and landscaping.
7	Urban Renewal	Agana Bay, Agana	Development from Paseo de Susanna to Anigua, including moving busi- nesses from seashore.
7	Urban Renewal	Asan	Community Development Projects - Acquire lands, improve sites, relocate families and businesses and rehabilitate structures.
7	Recreation: Beach	Piti	Improvement: Drainage improvement, picnic units installation and bench rejuvenation.
7	War in the Pacific Historic Park	Asan Point, Asan	Federal property - National Park service - War in the Pacific National Historical Park, plans completed.
7	Aquaculture: Prawn Hatchery	Asan Point, Asan	Proposed GovGuam hatchery to provide stock for aquaculture of fresh water prawns.
7	Recreation: Beach Park	Piti	Beautification: Upgraded and expanded picnic facilities, beach shelters, drinking fountain, improve landscaping, and fence and rejuve- nate beach.
7	Recreation: P.C. Santos Memorial Park	Piti	

SECTOR	ACTIVITY	LOCATION	COMMENT
8	Aquaculture	Apra Harbor	Good location for aquaculture in Guam at east end of outer Apra Harbor.
8	Industrial Development	Cabras Island	Cannery, factories, etc., proposed after removal of old Ammo Wharf.
8	Port Development	Cabras Island	Expanded port facilities.
8	Transp. Network: Apra Harbor	Apra Harbor, Piti	Harbor expansion, including dredg- ing and landfill. See also Ammo Wharf, Apra Master Plan.
8	Transp. Network: Boat Ramp	Piti Channel	Boat ramp to be built next to Cabras Power Plants for recreational boating
8	Power Plants	Cabras Island	Additional power plants to be built in 1980's.
8	Recreation: Marina	Naval Station, Piti	Small boat marina, included in the Commander Naval Force, Marianas Recreation program.
8	Transp. Network: Recreation: Boat Facilities	Apra Harbor	COE study planned for 1977 to deter- mine feasibility of Harbor of Refuge for sailboats and small fishing boats.
8	Agriculture	Naval Shore land Apra Harbor	Navy leasing of coastal lots for agriculture.
9	Ammo Wharf	Orote Point,	Final engineering studies underway for first of three phases, including additional enhance to Apra and Tarague Barge Wharf.
9	Navy Sewage Treat- ment Plant and Outfall	Tipalao Point, Santa Rita	Near Apra Harbor, upgraded and expanded treatment plant (from primary to Level 1 secondary treat- ment) and outfall will be repaired. Flows from both military and civilian sources. Agat Treatment Plant will be abandoned. Sewer from Agat- Nimitz Sewer System will go to Navy Treatment Plant but not officially approved.
10	Cement Plant	Southeast of Paga- chao Subdivision, Agat	Proposed location for cement manu- facturing facility including quarry, crusher, kiln, storage.
10	Transp. Network: Agat Marina	Agat (Gaan Pt.).	Development including dredging and landfill, launching ramp, boat dock and revetment; study being carried out under COE funding.
10	Recreation: Nimitz Beach Park	South of Agat, Agat	Improvement - Parking, beach pavilion, repair barbecue pits, park benches; these are two Japanese anti-aircraft guns, inclusion in the War in the Pacific National Historic Park, questionable at present time.

SECTOR	ACTIVITY	LOCATION	COMMENT
10	Recreation: Talafac Stone Bridge	Agat	Preservation (restoration development); adjacent site considered a probable area for proposed Agat Boat Basin.
10	Recreation: Talafac Tolai Ancho (Bridge)	Agat near Nimitz Beach	Preservation including repair, stabilization of bridge structure, interpretation and restoration.
10	Super tanker mooring and off loading	Agat Bay	Plan for single point mooring for super tankers to off load via submerged pipe to GORCO Refinery. Environmental Study Complete.
10	Flood Control	Namo River, Agat	Protect low lands from flooding. (COE Project)
10	Transp. Network: Launching Ramps	Nimitz Beach, Agat	P.L. 12-127 authorized the appropriation for construction. No action at present.
10	Recreation: Artificial Fishing Reef	North of Nimitz Beach, 60 ft. deep	Fish and Wildlife's Division proposes to sink barge as fish habitat.
10	Transp. Network: Launching Ramps	Umatac Bay, Umatac	P.L. 12-127 authorized the appropriation for construction. No action at present.
10	Recreation: Park Bay	Umatac Bay, Umatac	Development and Improvement - Upgrade beach areas, improve picnic areas, parking areas, shelters, picnic units, landscaping/barriers, and Magellan Monument Interpretation. Temporary pier constructed, possible site of a Guam's "Sea Life Park" development by private interests.
10	Recreation: Fort	Umatac Bay, Umatac	Preservation (rest/development), clearing, restoration, walkway, picnic units, parking and interpretation.
10	Recreation: Fort	Umatac Bay (near entrance, Umatac	Rest/development. Phase I - Archaeological investigation and stabilization. Phase I - Access and parking, trail, interpretation.
10	Recreation: Fort	Umatac Bay, Umatac	Scenic overlook - Development not completed.
10	Sewage Outfall	Umatac Bay, Umatac	Ocean outfall. <u>Dead issue.</u>
10	Treatment Plant With Sewage Outfall	Toguan Bay Umatac/Merizo	Ocean outfall, proposed in initial studies by Gillham, Koebig & Koebig as primary site.
11	Recreation: Bell Tower & Conbento	Merizo	Preservation - Picnic units, shelters parking, interpretation signs, owned by Catholic Church, federal funds available from Historic Preservation program.
11	Recreation	Cocos Island Merizo	Development - Portion for destination area, boat dock, picnic units, shelters and bathhouse-restroom.
11	Recreation: Resort	Cocos Island	Illegal development begun of prior, groin, restaurant by owners. Proposed casino.

SECTOR	ACTIVITY	LOCATION	COMMENT
11	Transp. Network: Paradise Pier	Mamoan Channel, Merizo	Proposed private venture; concept approved, no project development to date.
11	Transp. Network: Merizo Pier	Mamoan Channel Merizo	Adjacent access channel, seawall backfill and boat ramp.
11	Transp. Network: Merizo Pier	Mamoan Channel Merizo	Cross-shaped commercial launching pier and mooring facility (accommodate six vessels, Public Notice No. PODCO-01247-3, 9/15/76).
11	Recreation: Merizo Pier Park	Merizo	Development proposed by Government of Guam.
11	Transp. Network: Guam Marine Co. Marina	Adjacent to Cocos Lagoon, Merizo	Temporary boating facility, accommodate four to six 30-foot boats for berthing.
11	Transp. Network: Boat Basin	Achang Bay Channel, Merizo	Dredging and filling at the head of Maneil Channel, Merizo to provide small boat launching and berthing facilities while channelizing the creek flow over the reef-flat area.
11	Transp. Network: Merizo Marina and Pier	Geus River Merizo	Boat basin at the mouth of the Geus River. Development - Involved dredging and landfill, including 1) parking area, twenty slip marinas, two launching ramps, water supply, 2) fuel facilities, supply shop, eight picnic units, two shelters, playground, and beach (swimming).
12	Waterline	Inarajan, Merizo	Along the coast.
12	Recreation: Swimming (Saluglula Pool)	Inarajan	Improvement on parking, picnic units, shelters, renovation of existing facilities, landscaping and camp-site park.
12	Waste Disposal Sewage Treatment Plant and Outfall	Pauliluc Bay Inarajan-Malojloj	Inarajan Sewage System, including a small treatment plant (secondary treated) with an ocean outfall. (See Vol. II, Waste-Water Facilities Plan, p. II-15).
12	Agriculture Experiment Farm	Next to Pauliluc Bay, Inarajan-Merizo.	UOG Agriculture Experimental Farm.
12	Aquaculture: Prawn Hatchery	Next to Pauliluc Bay, Inarajan-Merizo	Possible alternate location of Government prawn hatchery.
12	Recreation: Beach	Bebesbes Beach, Inarajan	Development of picnic units, shelters restroom bathhouse, access road, parking area, water supply and power, game area and landscaping.
12	Aquaculture: Commercial Fish Ponds	Agfayan Bay	Eel farming in raised concrete tanks. (under construction)
12	Recreation: Beach	Talofofo Beach, Talofofo	Development.
12	Shore Protection	Talofofo	Riprap protection of the beach and recreation areas and roads at Talofofo.

SECTOR	ACTIVITY	LOCATION	COMMENT
12	Transp. Network: Bridge	Talofofo River	New road alignment and bridge at river mouth.
12	Recreation: Beach	Ipan Beach Talofofo	Development of Ipan camping area (trail and campsite construction area).
12	Large-scale Recreation Talofofo Waterfall Park	Talofofo River River Valley	Private development.
12	Reservoir	Ugum River	Hydrological study completed by COE.
12	Recreation: Beach	Tagachang Beach, Yona	Improvement and Development: Initial development and improvement. Phase II-area into regional park serving the east central portion of Guam. Facilities include campsites, group camp area, picnic units, mile trail, outdoor games area, beach conditioning, access road and toilet facilities.
12	Water Treatment Plant	Ylig W.T.P., Yona	This is on the Ylig River; no funds spent. Source of drinking water with filtered waste disposal down stream in river.
12	Transp. Network: Launching Ramps	Pago Bay, Yona	Public Law 12-127 authorized the appropriation for construction.
12	Transp. Network: Launching Ramps	Talofofo Bay, Talofofo	Public Law 12-127 authorized the appropriation for construction.
12	Transp. Network: Launching Ramps	Inarajan Bay, Inarajan	Public Law 12-127 authorized the appropriation for construction.
12	Transp. Network: Launching Ramps	Ylig Bay, Yona	Public Law 12-127 authorized the appropriation for construction.
12	Transp. Network: Ylig Boat Ramp	Ylig Bay, Yona	Development - Launching ramp, parking area and a dock along the shore for transit tie up.
12	Transp. Network: Public Marina and Launching Facility	Ylig Bay, Yona	
12	Recreation: Resort	Ylig Bay, Yona	Hong Kong Land Co., high use condominium resort hotel.
12	Residential	Pago Bay, Yona	Cal-Island Development Co. Residential Housing.
12	Residential	Pago Bay, Yona	Frank Loright Co., Town House type residential housing located on south side of Pago Bay.
12	Educational-Recreational	Marine Lab-UOG Mangilao	Seawater inlet and possible development of aquarium and botanical garden.

APPENDIX 4 BEACH STRAND INVENTORY

(FROM REPORT "BEACH ACCESS ON GUAM")

BEACH STRAND INVENTORY

<u>Place Name</u>	<u>Length (meters)</u>	<u>Width (meters)</u>	<u>Ownership</u>	<u>Inland Access</u>	<u>Comments</u>
1. Amantes Pt.-Bijl Pt.	594	1-15	Private	None	
2. Fafai Beach	366	8-32	Private	Secondary Road	
3. Gogua Beach	220	310	Private	Through Okura	Also known as Gun Beach
4. Naton Beach	1775	8-27	Private	Secondary Road	
5. Ypao Beach	671	5-8	GovGuam	Secondary Road	
6. Hospital Pt.	40			None	Developing into a beach strand.
7. Alupang Island	27		Gov Guam	None	
8. Dungcas	846	3-8	Private	Secondary Road	
9. Dungcas-Trinchera Gap	1844	3-16		Through Private Property	
10. Trinchera Beach	693	3-16	Gov Guam	Marine Drive	
11. Naval Cemetery	175	16	GovGuam	Marine Drive	Padres Palomo Park
12. Agana	1619	3-16	GovGuam	Marine Drive	
13. Anigua-Pigo	213	3-12		Graded & drained through private property	Fonte River
14. Adelup	667	3-19	GovGuam		Adelup School
15. Asan	594	319	Private	Marine Drive	
16. Asan Pt.	853	6-19	Private	Marine Drive	Commercial & residential block access

17.	Piti	1585	10-20	Federal	Marine Drive	Asan Invasion Beach
18.	Tapungan Channel	149	3-10	Federal	Marine Drive	USO Beach & Santos Park
19.	Hotel Beach	244		Federal	Paved Road	Beach still developing
20.	Atantano River	1020		Federal	Restricted	
21.	Orote Peninsula #1	80	3-10	Federal	Restricted	
22.	Orote " #2	202	3-16	Federal	Restricted	
23.	Orote " #3	65	3-16	Federal	Restricted	
24.	Gabgab Beach	524		Federal	Base Pass	A rocky shoreline w/sand deposit
25.	Tipalao Beach	236		Federal	Base Pass	
26.	Dadi Beach	1330	2	Federal	Base Pass	
27.	Rizal Beach	1330	2	Federal	Primary Road	With parking lot
28.	Tocha Beach	1505	15	Private	Primary Road	
29.	Salinas Beach	1505	15	Private	Primary Road	
30.	Gaan Pt.	1909	19	Private	Primary Road	
31.	Bangi Pt.	1909	19	Private	Dirt Road	Keep out sign
32.	Chaligan	1798	23	Private	Primary Road	
33.	Nimitz Beach	1798	23	Federal	Primary Road	With parking lot marine access
34.	Taleyfac River	1798	23	Private	Dirt Road	
35.	Taelayag Beach	1402	15	GovGuam	Dirt Road	Blocked
36.	Sagua Beach	1006	27		Foot Trails	
37.	Facpi	1062	12		Foot Trails	

38.	Achugao Pt.	472	12		Foot Trails	
39.	Sella Bay & Abong	1457	34	GovGuam	Foot Trails	
40.	Cetti Bay	610	3-16	Private	Foot Trails	Marine Access
41.	Fouha Bay	100			Foot Trails	
42.	Umatac Bay	229	23	GovGuam	Primary Road	
43.	Machadgun Pt.	457		Private	None	A rocky shoreline w/sand
44.	Mamatgun Pt.	457		Private	Dirt Road	Chained closed
45.	Toguan Bay	966	9	Private	Primary Road	Rocky shoreline
46.	Ajmo Beach	381	9	Private	Primary Road	Rocky shoreline. Access across private property
47.	Bile River South	53	5-14	Private	Primary Road	Access across private property
48.	Pigua River	136	5-20	Private		Access across private property
49.	Cocos Island	1871	5-25	Private	None	Marine access
50.	Cocos Sand-Islet	118	34		None	Marine access
51.	Pigua Beach-Ada	975	1-5	Private	Primary Road	
52.	Aang Beach	1303	3-10	Private	Primary Road	
53.	Liyog River mouth	137				
54.	Ayajan Bay	213	124	Private	Primary Road	Rocky & shoreline
55.	Aga Bay	122	3-5	Private	Primary Road	Sectioned off w/fences
56.	Guifen Pt.	701	5-15	Private	Primary Road	Across private property
57.	Atao Beach-Acho Pt.	610	15	Private	Dirt Roads	Across private property

58.	Acho Pt.	427	20	Private		Fences.
59.	Agfayan Bay	118	20	Private	Primary Road	
60.	Inarajan Bay & Guae	67-8	2-60	Private		Marine access
61.	Pauliac Bay	457	1-20	Private	Foot Trails	
62.	Perez Beach	412	to 50	Private	Primary Road	
63.	Asiga Beach	107		Private		No access
64.	Asalanso River mouth	141	15	Private		Across private property
65.	Talofof Bay	335	46	GovGuam	Primary Road	
66.	Ipan Pt.	100	30	GovGuam	Primary Road	
67.	Cruz Beach	123	42	Private	Dirt Road	
68.	Jones Beach	823	42	Private	Closed access	Moylan & Corn Beach
69.	Ipan Beach	480	23	GovGuam	Park	7th. Day Adv. Cemetery
70.	Togcha	427	15	Private	Dirt Road	
71.	Ylig Bay	290	27	Private	Dirt Road	Marine access
72.	North Ylig	109	15	Private	Dirt Road	
73.	Tagachan	113	30	GovGuam	Park	
74.	Pago Bay	1543	15	Private	Dirt Road	
75.	Tagua Pt. Mouth	4938	69	Federal	Restricted	
76.	Tarague	572	61	Federal	Restricted	
77.	Jinapsan	2065	38	Private	Through AAFB	

78.	Ritidian	1562	46	Federal	Restricted	
		1734	46	Federal	Restricted	
		255	23	Federal	Restricted	
79.	Urano Beach	2804	34	Private	Through Base	
80.	Falcona Beach	594	27	Private	Through Base	
81.	Haputo Beach	310	19	Federal	Restricted	
82.	Hilaan-Tanguissan Pt.-NCS	412	38	Federal	Secondary Road to NCS	

APPENDIX 5 SHORELINE EROSION ON GUAM

Introduction

In response to Section 305(b) (9), Rules and Regulations 902.19 of the Coastal Management Act of 1972, increased nationwide emphasis on the management of shoreline erosion problems is a major objective of many Coastal Zone Management programs. This paper addresses the extent of natural force and man-induced shoreline erosion on the island of Guam and represents the Guam Coastal Management Program's position concerning the amount of emphasis needed, locally, in relation to the unique factors that formulate our resource planning objectives.

Shoreline Classification

Comprised of 212 square miles of land area, the entire island of Guam is considered to be a coastal zone. There are 116.5 miles of shoreline circumventing the island. To address existing or potential shoreline erosion problems, the immediate coastline or ocean-land interface is classified into rock coastline, sandy beaches, mangrove mudflats and river estuaries.

Rocky Coastline

The rocky coastline constitutes 62% of Guam's shoreline, approximately 72.5 miles. It is characterized by steep slopes, cliffs, headlands, uplifted limestone terraces, benches cut into limestone or into volcanic rock slightly above sea level and low exposed beach rock. The cut benches are the most extensive type of rocky coastline on Guam and have been formed by erosion of the adjacent elevated rocky shores, often with secondary construction by marine worms and algae or rims forming pools on top of the benches. Indentations, called "nips", formed by extremely slow erosion of limestone rock by algae, limpets and chitons, are typically present at the existing and at previous sea levels. In some parts of the southwest coast volcanic lava formations occur at the shoreline adjacent to eroded flat lava benches at sea level, similar in shape to the coral reef flats. Small areas of low rocky shoreline, consisting of reef limestone and beach rock raised slightly above high tide level are scattered through certain beach areas in all parts of Guam. Noticeable shoreline change is practically non-existent along the rocky shore with the exception of slumping or fracturing of parts of steep slopes and cliffs due to solution, earthquakes, or storm waves. This occurrence is unpredictable and limited to areas that are not developed on the northeast and northwest coast and minor localities in the southeast of Guam. No serious, immediate or eminent problems exist in the rocky coastline areas.

Sandy Beaches

The sandy beaches of Guam comprise approximately 31% of the shoreline or 35.9 miles. They are sloping landforms composed of unconsolidated sand, gravel, broken shells, coral and foraminifera. They are characterized by high permeability and volcanic detrital or reef bioclastic composition, or a mixture of the two. They extend landward from the water's edge to a distinct break in the landform or to a point where terrestrial vegetation covers the substrate. They extend seaward as far as the sandy bottom is appreciably affected by tide, currents and wave movements. Most of the sandy beaches of Guam are protected from the erosive effects of average weather conditions by an expanse of shallow reef flat that extends seaward to a reef front or fringing reef that suppresses

the force of all but the largest of storm waves. During typhoons, an excess buildup of sand is lifted from the floor of the reef flat and a sandy beach may be expanded further inland. Erosion of beach areas during storms is minimal and limited to small areas where a channel or reef cut allows storm waves to penetrate the reef flat buffer zone. Post-typhoon redistribution of sand can naturally correct limited adverse effects.

The major potential for erosion of sandy beaches exists with the influence of man. The practice of sandmining for construction, landfill and golf course purposes has degraded several beach areas in terms of ecological complexity, aesthetic appearance and recreational potential. Increased enforcement and study of alternative sources of sand resources are current methods utilized to deter this activity. Since the inception of Guam's Coastal Management Program, and coordination of enforcement and public information programs--the incidence of sandmining has considerably diminished.

Until recently, Guam was free of the erosive effects of beach groins perpendicular to longshore currents. The past year has seen the construction of the first concreted groin on a sandy beach along Cocos Island--a southern offshore portion of a barrier reef lagoon with longshore currents affecting sand formation. The effects have been a noticeable sand buildup on one side of the groin with a subsequent sand loss on the opposite side. This groin, the base of a small boat pier, was constructed without the required federal and local permits. Improved field inspection, coordination of regulatory enforcement and ongoing research are seeking to modify this dock to encourage the retention of natural beach processes, inhibit shoreline erosion and discourage future proliferation of beach groins, seawalls or jetties. Public participation, federal and local enforcement, field inspection, the Guam Coastal Management Seashore Reserve Plan and Comprehensive Land-Use planning (including delineation of areas of particular concern) are the measures utilized in meeting this objective.

Mangrove Mudflats

The appendix to the Atlas of the Reef and Beaches of Guam contains maps and description of mangrove areas. The U. S. Army Corps of Engineers has also conducted studies to define the nature of the mangrove communities. Presently, mangrove mudflats are represented in only two locations on Guam. An extensive stand of several mangrove species has been increasing in size along 4.5 miles of the inner shore of Apra Harbor along the central western coast. Apra Harbor is the island's major deep-water port and is characterized by a breakwater that was built upon the barrier reef of a natural lagoon. The expanse of mangroves has noticeably increased in the past ten years, because increased sedimentation from inland erosion, carried by the Laguas, Agueda and Atantano Rivers, has increased the mudflat area. The mangroves themselves further assist in the buildup of shoreline area. The Apra mangroves are rarely frequented by man, except to catch mangrove crabs. They are encompassed by federally-owned property, restricted areas and are classified as wetlands. Shoreline erosion is non-existent in this area, rather shoreline buildup is in effect.

The other area of mangrove shoreline is along the extreme southern coastline between Merizo and Inarajan along the inner area of the Cocos Lagoon. The strand of mangroves fringes 3.5 miles of shoreline and assists in shoreline stabilization. These mangroves have proved extremely resistant to typhoon

winds and waves and represent a unique ecological community. The only potential for shoreline degradation would occur if the mangroves were removed to enhance visual and public access. Due to their limited occurrence on Guam and ecological importance, the Coastal Management Seashore Reserve Plan discourages this possibility. The U. S. Army Corps of Engineers may also protect mangrove communities through their permit system controlling developments in wetlands.

River Estuaries

Approximately forty rivers constitute the surface drainage pattern that covers the southern half of the island. Thirty-three of these have mouths at the seashore and nine of these have extensive estuarine areas. Major rivers flow into shoreline embayments that are most often the site of urban village centers because of the relatively flat terrain that borders the coastline river mouths. Inland erosion is a persistent problem and clouds many estuaries with pollution. However, shoreline erosion is only a problem at Talofofo Bay along the southeast coast of Guam. In a detailed project report entitled, Talofofo Beach, Territory of Guam, published in June, 1974, the COE defined the nature of shoreline erosion in this area and outlined a plan for shore protection. The plan has never been implemented. The following description is adapted from their report.

Talofofo Bay

The shoreline at Talofofo Beach changes with the wet and dry season. During the dry season, the river flow is relatively low and a sandbar develops at the northern side of the river mouth. The sandbar diverts a great deal of riverine material to the beach area. In addition, sand from offshore deposits is carried by waves, through the reef opening in the bay, onto the shore. During the wet season, the river flow increases and increased deposit of riverine material occurs, however, since the tradewinds are low, a smaller amount of sand is transported by wave action. During the wet seasons, the incidence of typhoons or tropical storms is the erosive factor at Talofofo Bay. Shoreline above five feet which is eroded by stormwave action does not build back. Since the early 1940's 1.6 acres of land have been claimed by shoreline erosion. A revetment, at an initial (1974) cost of \$525,000 with an annual charge of \$29,900 for interest, amortization and maintenance would be required to implement the selected plan. Based on the extent of the problem, the economic feasibility and existence of higher priority needs, the plan will most likely never be implemented.

Additional Considerations

In addition to Federal Coastal Zone Management interest in shoreline erosion, the U. S. Congress passed the Shore Erosion Control Demonstration Act (Public Law 93-251, Section 54) in 1974. This act gave the COE authorization to initiate a shore erosion control demonstration program, and created the Shore Erosion Advisory Panel. The Advisory Panel, through the COE District Engineer, Hawaii Office, invited Guam to submit site location proposals. The Bureau of Planning, in consultation with the University of Guam Marine Laboratory, and the Guam Environmental Protection Agency concluded that no existing sites on Guam warrant study for demonstration projects.

Conclusion

Numerous shoreline studies by the Guam Coastal Management Program, COE, University of Guam Marine Laboratory, and Guam Environmental Protection Agency have defined the nature of shoreline resources and extent of shoreline erosion. Only one problem area has warranted study for consideration of shore stabilization. Primarily as a result of the unique characteristics of Guam's shoreline, further emphasis, funding, and study is of low priority. On an island the size of Guam, future problems concerning shoreline erosion can easily be recognized and considered for study. Currently, shoreline erosion areas are not a geographic area of particular concern on Guam.

References

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APPENDIX 6 AREAS OF PARTICULAR CONCERN MAPS

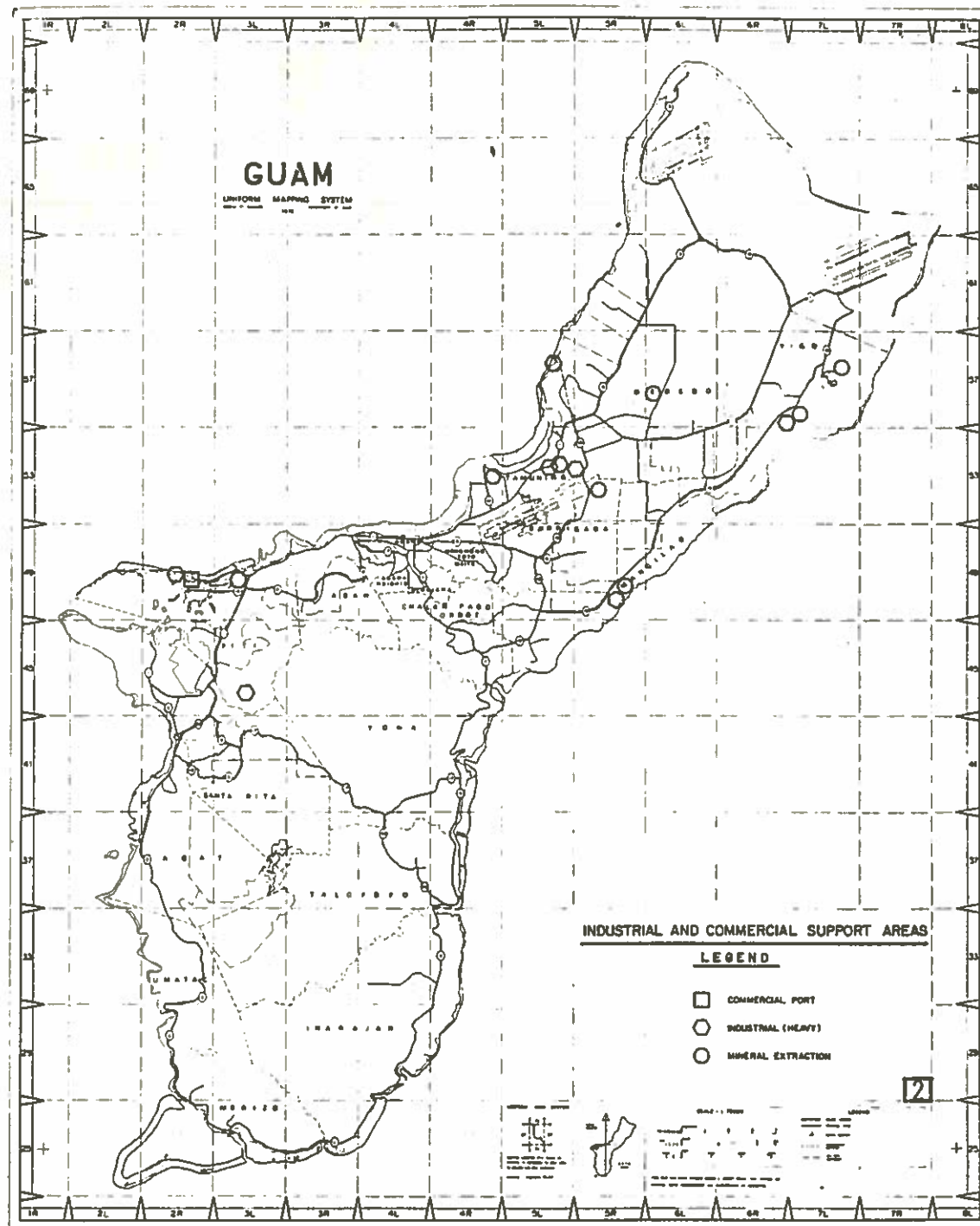
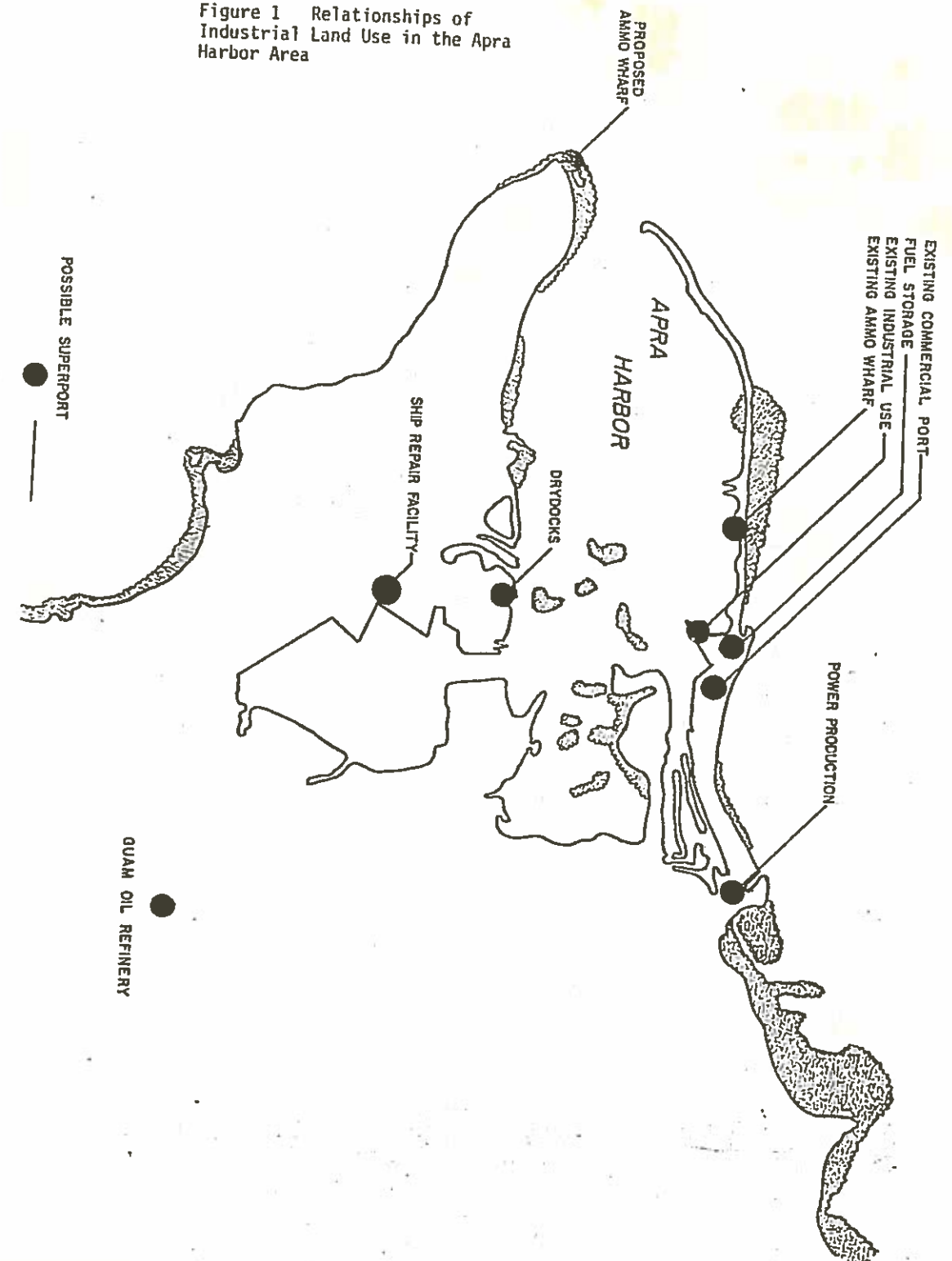
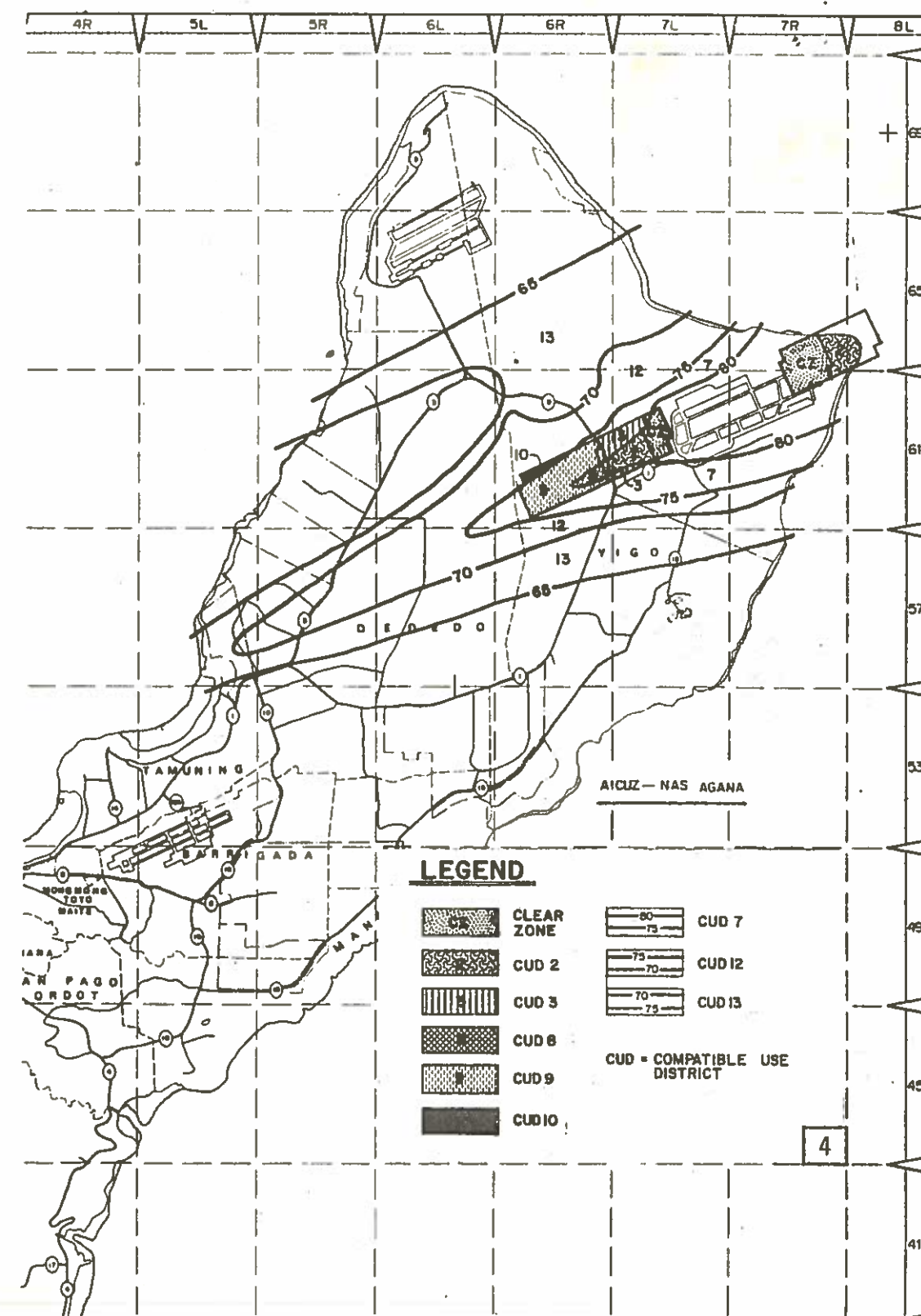
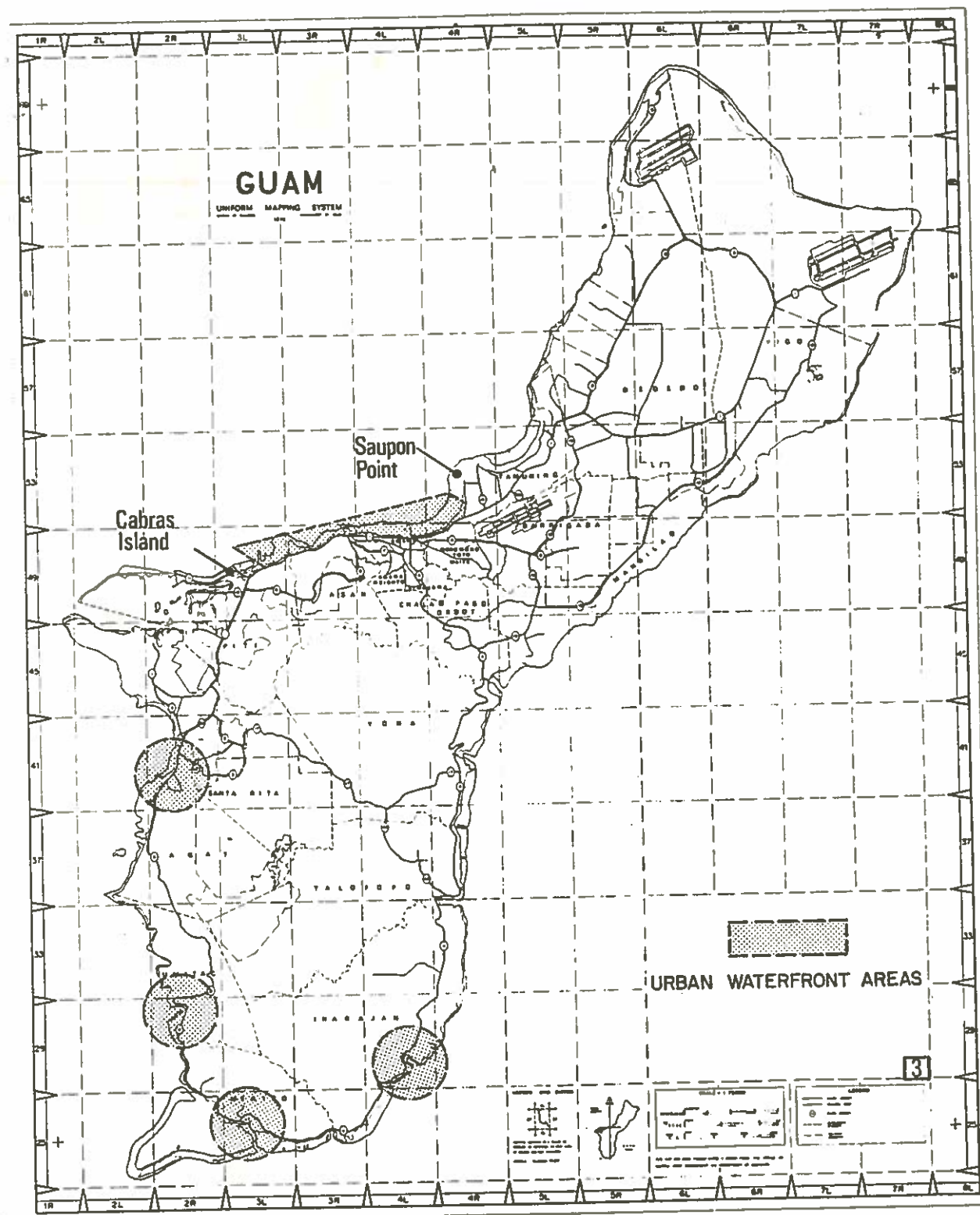


Figure 1 Relationships of Industrial Land Use in the Apra Harbor Area





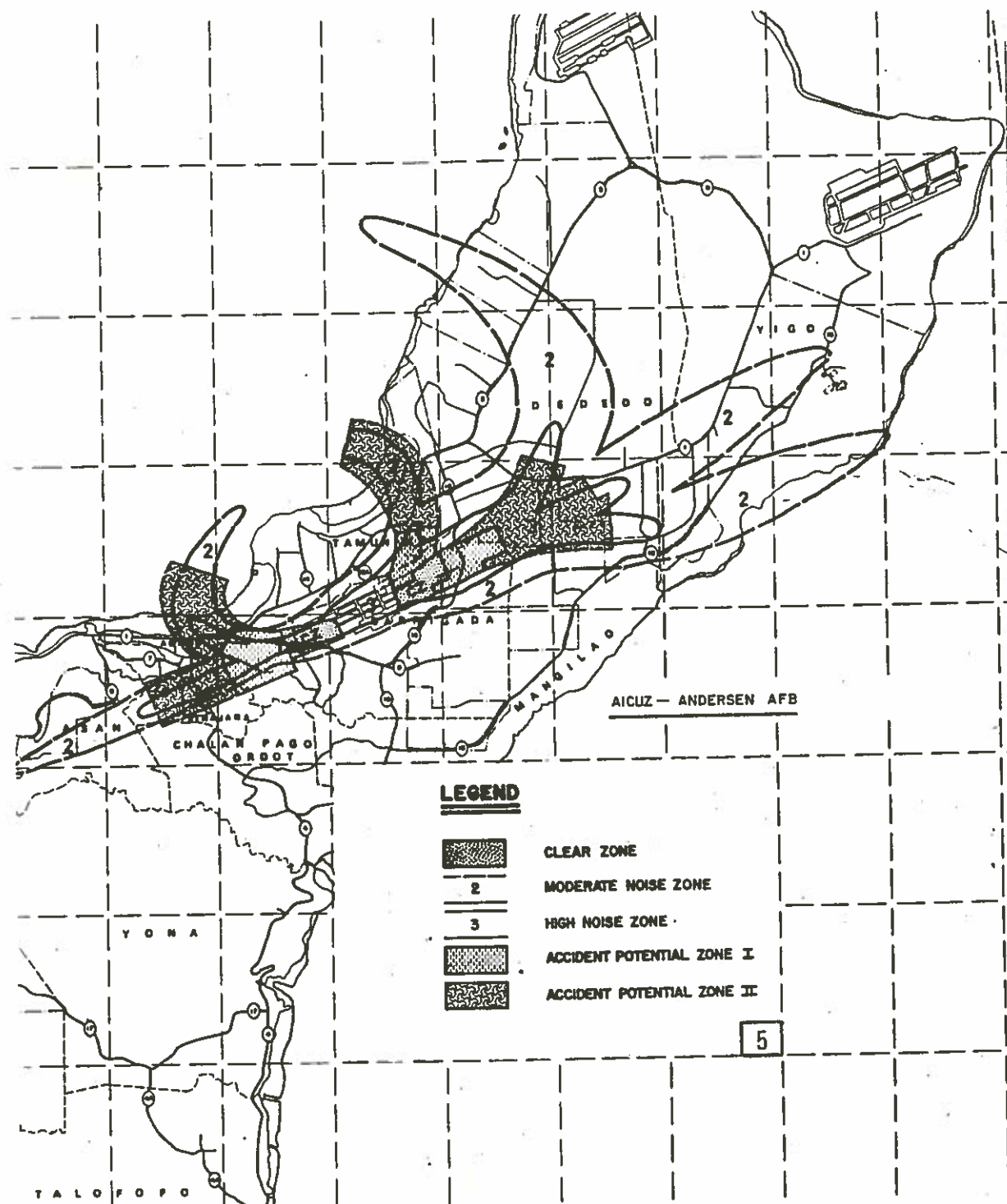
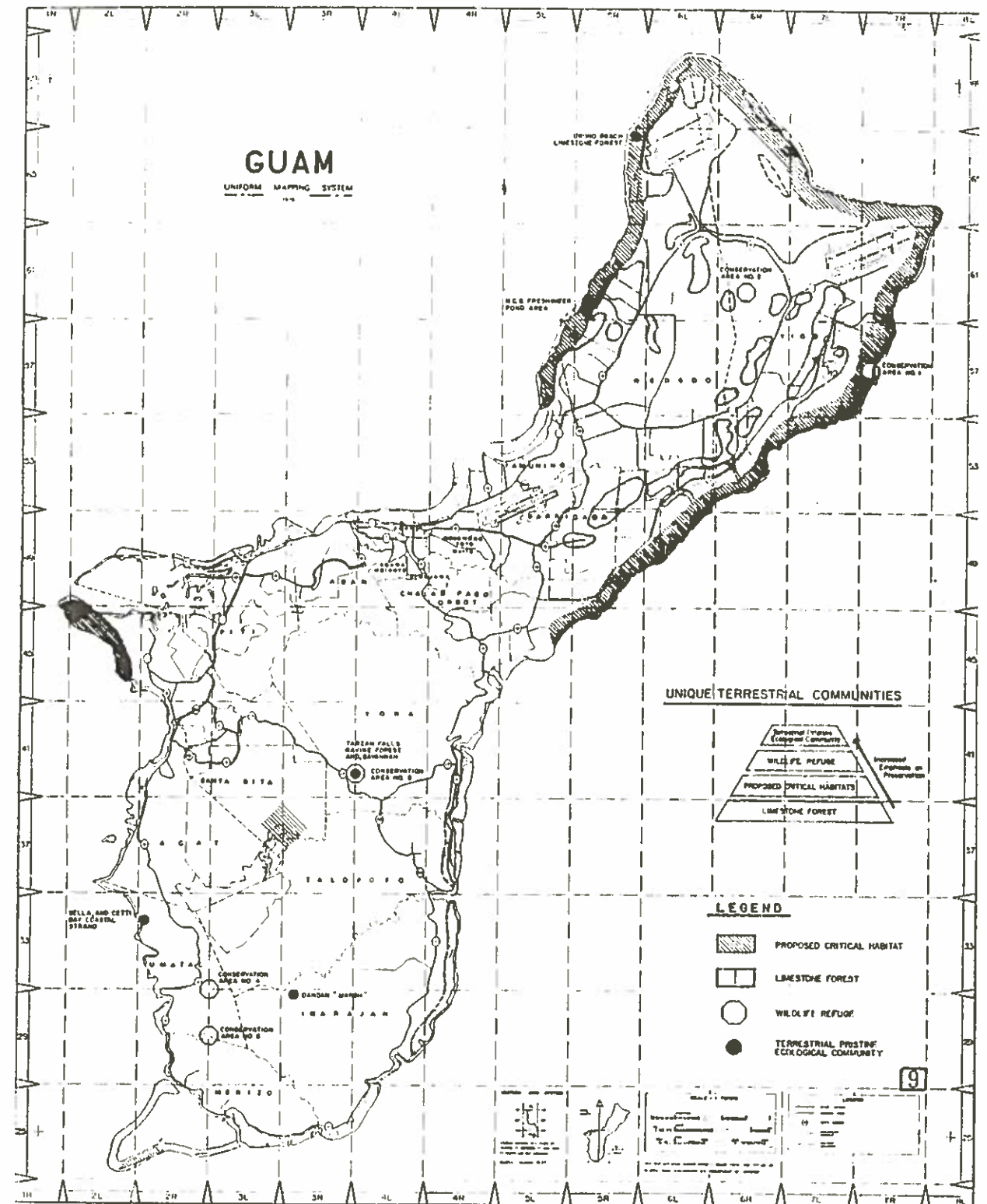
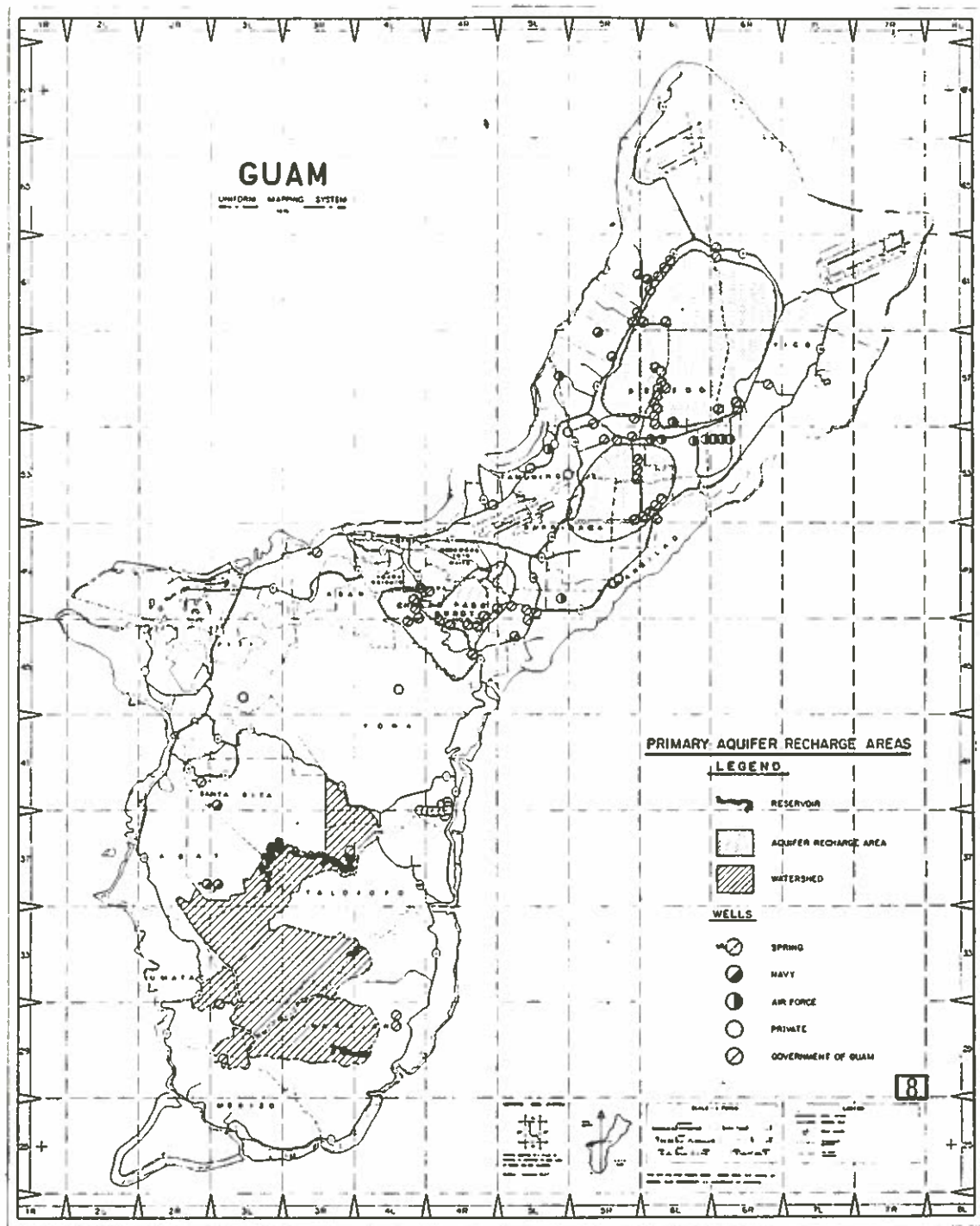
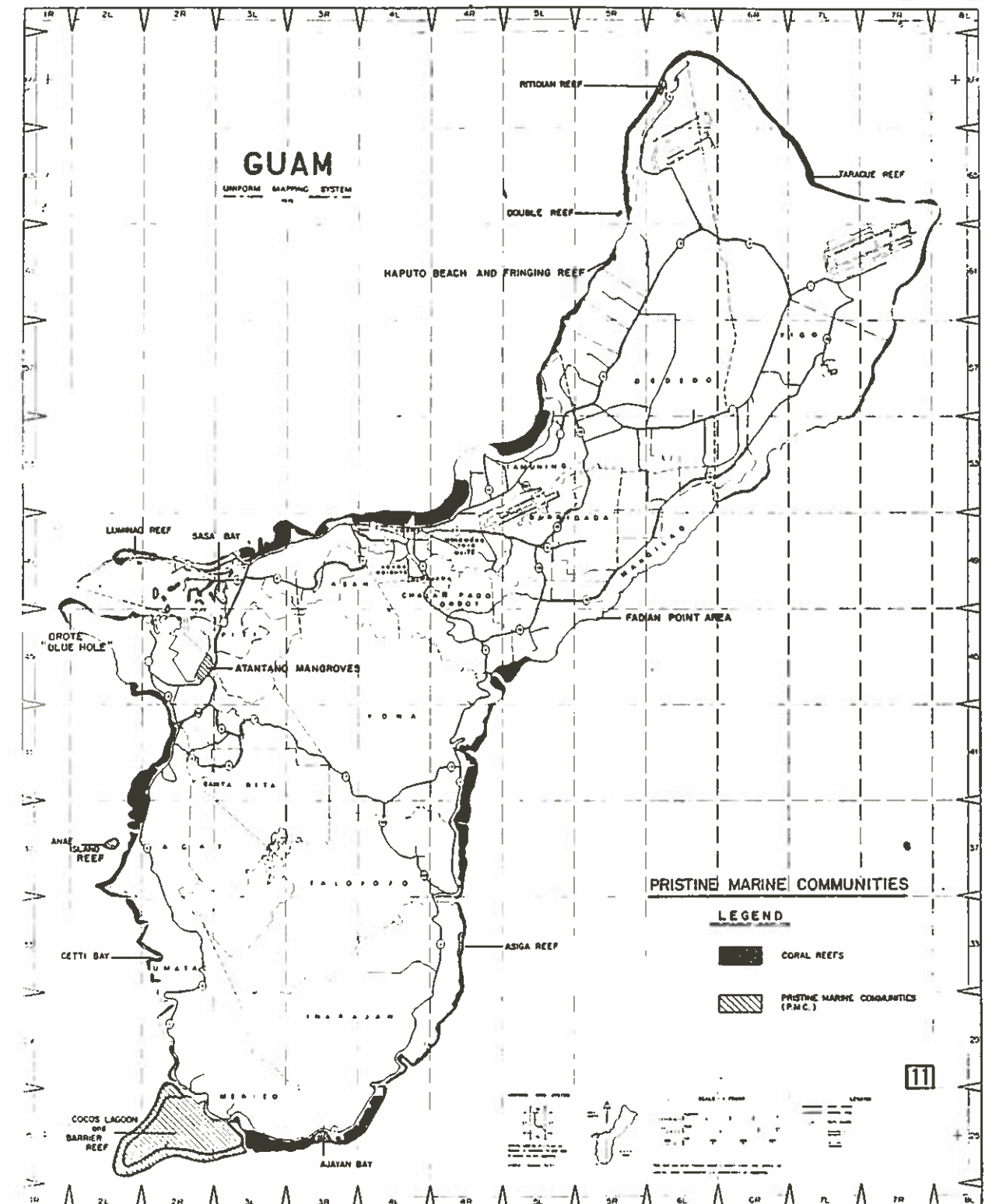
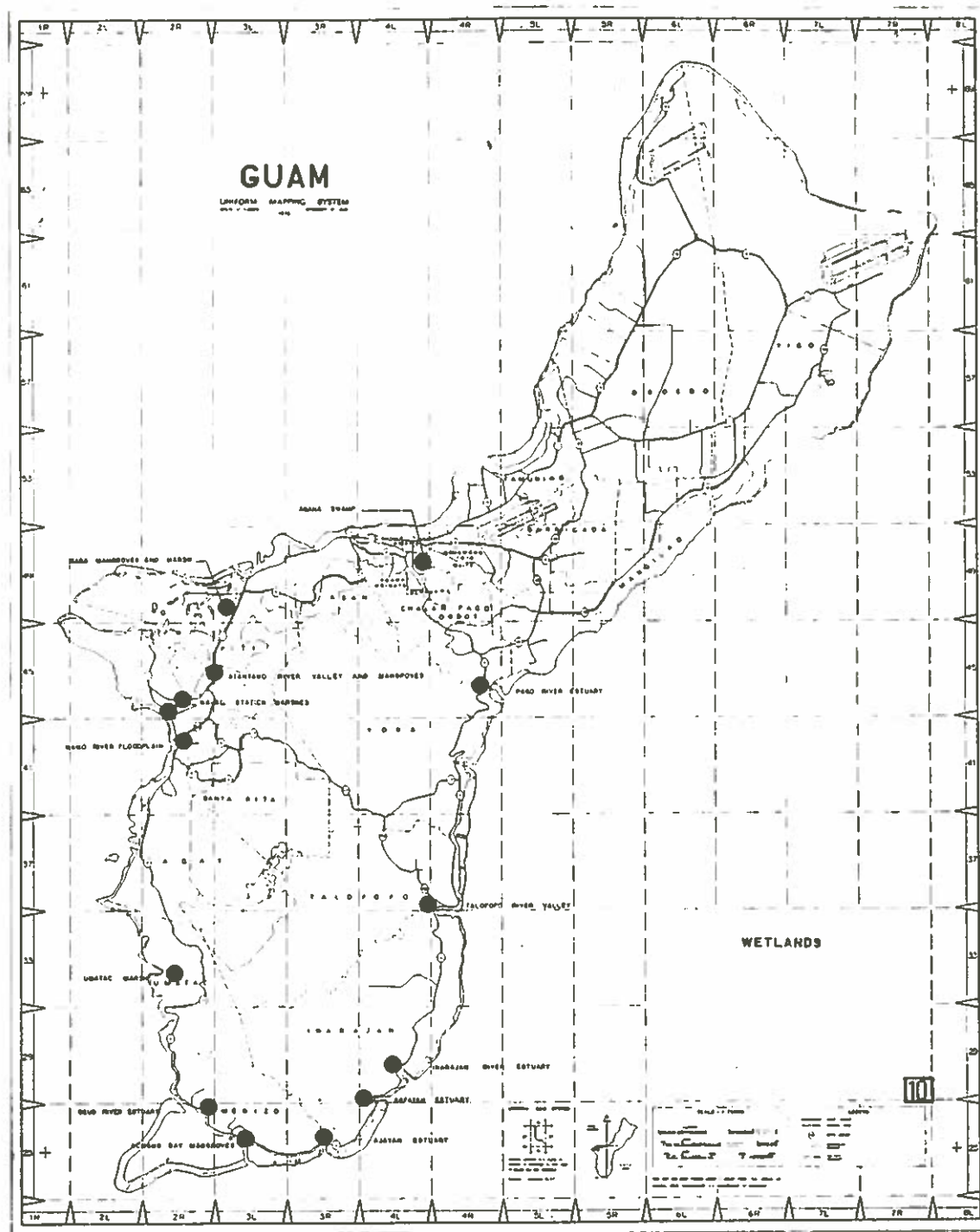


FIGURE 2

AICUZ ZONES	LAND USE														
	1	2	3	1/2	1/3	1/2	1/3	1/2	1/3	1/2	1/3	1/2	1/3	1/2	1/3
CLEARLY UNACCEPTABLE															
NORMALLY UNACCEPTABLE															
1 ACCIDENT POTENTIAL ZONE I NO NOISE ZONE															
2 ACCIDENT POTENTIAL ZONE II NO NOISE ZONE															
3 ACCIDENT POTENTIAL ZONE I HIGH NOISE ZONE 2															
1/2 ACCIDENT POTENTIAL ZONE I MODERATE NOISE ZONE 3															
1/3 ACCIDENT POTENTIAL ZONE II HIGH NOISE ZONE 3															
1/2 ACCIDENT POTENTIAL ZONE II MODERATE NOISE ZONE 2															
3 NO ACCIDENT POTENTIAL HIGH NOISE ZONE															
2 NO ACCIDENT POTENTIAL MODERATE NOISE ZONE															
RESIDENTIAL - LOW DENSITY															
RESIDENTIAL - MEDIUM DENSITY, PLANNED RESIDENTIAL DEVELOPMENT															
RESIDENTIAL - HIGH DENSITY CONDOMINIUMS APARTMENTS															
COMMERCIAL - RETAIL, INTENSIVE															
COMMERCIAL - WHOLESALE AND RETAIL, EXTENSIVE															
COMMERCIAL - PLANNED SHOPPING CENTERS, EATING AND DRINKING ESTABLISHMENTS															
SERVICES - PERSONAL, BUSINESS AND PROFESSIONAL OFFICES															
SERVICES - INDOOR RECREATIONAL CULTURAL ACTIVITIES															
INSTITUTIONAL - SCHOOLS, CHURCHES, HOSPITALS, NURSING HOMES															
INSTITUTIONAL - GOVERNMENTAL SERVICES															
RECREATIONAL - PLAYGROUNDS, NEIGHBORHOOD PARKS															
RECREATIONAL - COMMUNITY AND REGIONAL PARKS															
RECREATIONAL - GOLF COURSES															
RECREATIONAL - SPECTATOR SPORTS, RESORT AND GROUP CAMPS, ENTERTAINMENT ASSEMBLY															
INDUSTRIAL - MANUFACTURING, INTENSIVE															
INDUSTRIAL - MANUFACTURING, EXTENSIVE															
INDUSTRIAL - PETROLIUM AND CHEMICAL PROCESSING															
AGRICULTURE - (EXCEPT LIVESTOCK)															
TRANSPORTATION - UTILITIES, QUARRYING															
WILDLIFE MANAGEMENT, FORESTS, CEMETERIES															
OPEN SPACE, WATER BODIES															

Source: U.S. Navy AICUZ Program





APPENDIX 1 GOVERNMENT OF GUAM OUTDOOR RECREATION SUMMARY

TABLE 2: GOVERNMENT OF GUAM OUTDOOR RECREATION SUMMARY

Classifications to Support Activities

Overnight Facilities

Resort (#resorts, #rooms)	0/0
Campground (#campgrounds, #campsites)	0/0
Other (#areas, #sites)	0/0

Natural Land and Water Areas

Environmental areas (#areas, acreage)	8/529 acres
Hunting areas (#areas, acreage)	5/25,000 acres
Trails (#trails, miles)	5/35 miles
Fishing areas (#areas, acreage)	7/130 acres
Boating areas (#areas, #slips)	2/40 slips
Swimming (acres of beach)	105 acres of beach
Surfing (# of sites)	30
Scuba (# of sites, acreage)	6/2,000 acres, non-boat access areas

Marmade Areas

Baseball fields	10
Softball fields	11
Football fields/soccer	6
Playgrounds	26 on 6.2 acres
Basketball/volleyball courts	42/52
Tennis courts	10
Handball courts	2
Golf courses	0-18 hole courses
Swimming pools (#pools, sq.ft.)	1/4,340 square feet
Picnic areas (# areas, #units)	26/80 units
Skating rink	0

Historical Areas, Cultural Areas, and Scenic Wonders

Historic areas	19
Prehistorical areas	1
Cultural areas	1
Natural history	5

Social Recreation Areas and Facilities

Carnivals, amusement parks	2/5 operating weeks
Facilities for outdoor dances, concerts, plays	0
Sports arenas	0
Youth Centers	12/624 Operating weeks

TABLE 3: PRIVATE OUTDOOR RECREATION SUMMARY

Classifications to Support Activities Measurable QuantityOvernight Capability

Resort (#resort, #rooms)	19/2,412
Campground (#campgrounds, #campsites)	2/10
Other (#areas, #sites)	0/0

Natural Land and Water Areas

Environmental areas (#areas, acreage)	0/0 acre
Hunting areas (#areas, acreage)	21/28,000 acres
Trails (#trails, miles)	6/22 miles
Fishing areas (#areas, acreage)	1/330 acres
Boating areas (#areas, #slips)	5/25 slips
Swimming (acres of beach)	71 acres of beach
Surfing (# of sites)	0
Scuba (# of sites, acreage)	0/0 acres

Manmade Areas

Baseball fields	0
Softball fields	0
Football fields/soccer	0
Playgrounds	1 on 1 acre
Basketball/volleyball courts	6/9
Tennis courts	12
Handball courts	0
Golf courses	2-18 hole courses
Swimming pools (#pools, sq.ft.)	11/13,750 square feet
Picnic areas (#areas, #units)	10/80 units
Skating rink	1

Historical Areas, Cultural Areas, and Scenic Wonders

Historical areas	3
Prehistorical areas	0
Cultural areas	0
Natural history areas	0

Social Recreation Areas and Facilities

Carnivals, amusement parks	1/10 operating weeks
Facilities for outdoor dances, concert, plays	7/365 Operating weeks
Sports arenas	1
Youth Centers	0

TABLE 4: MILITARY OUTDOOR RECREATION SUMMARY

Classification to Support ActivitiesOvernight Capability

Resort (#resorts, #rooms)	0/0
Campground (#campgrounds, #campsites)	1/3
Other (#areas, #sites)	0/0

Natural Land and Water Areas

Environmental areas (#areas, acreage)	13/23,270 acres
Hunting areas (#areas, acreage)	42/14,900 acres
Trails (#trails, miles)	10/46 miles
Fishing areas (#areas, acreage)	3/150 acres
Boating areas (#areas, #slips)	2/10 slips
Swimming (acres of beach)	67 acres
Surfing (# of sites)	8
Scuba (# of sites, acreage)	3/2,500 acres

Manmade Areas

Baseball fields	9
Softball fields	19
Football fields	6
Playgrounds	84 on 32.5 acres
Basketball/volleyball courts	16/13
Tennis courts	133
Handball courts	11
Golf Courses	1.5-18 hole courses
Swimming pools (#pools, sq.ft.)	9/30,000 square feet
Picnic areas (#areas, #units)	9/181 units
Skating rink	0

Historical Areas, Cultural Areas, and Scenic Wonders

Historical areas	3
Prehistorical areas	1
Cultural areas	0
Natural History areas	1

Social Recreation Areas and Facilities

Carnivals, amusements parks	0
Facilities for outdoor dances, concerts, plays	4/208 Operating weeks
Sports arenas	1/52 Operating weeks
Youth Centers	0

TABLE 5: GUAM OUTDOOR RECREATION SUMMARY

Classification to Support ActivitiesOvernight Capability

Resort (#resort, #rooms)	19/2,412
Campground (#campgrounds, #campsite)	2/10
Other (#areas, #sites)	0/0

Natural Land and Water Areas

Environmental areas (#areas, acreage)	9/23,799 acres
Hunting areas (#areas, acreage)	30/67,900 acres
Trails (#trails, mileage)	21/103 miles
Fishing areas (#areas, acreage)	11/610 acres
Boating areas (#areas, #slips)	9/75 slips
Swimming (Acres of beach)	413 acres of beach
Surfing (# of sites)	38
Scuba (# of sites, acreage)	9/4,500 acres

Manmade Areas

Baseball fields	19
Softball fields	30
Football fields	12
Playgrounds	111 on 30.7 acres
Basketball/volleyball courts	64/74
Tennis courts	55
Handball courts	13
Golf courses	3.5-18 holes courses
Swimming pools (#pools, sq.ft.)	21/48,090 square feet
Picnic areas (#areas, #units)	45/341 units
Skating rink	1

Historical Areas, Cultural Areas, and Scenic Wonders

Historical areas	25
Prehistorical areas	2
Cultural areas	1
Natural history areas	6

Social Recreation Areas and Facilities

Carnivals, amusement parks	3/15 Operating weeks
Facilities for outdoor dances, concerts, plays	11/573 Operating weeks
Sports arenas	2/52 Operating weeks
Youth Centers	12/624 Operating weeks

TABLE 6: PUBLIC OWNED POTENTIAL RECREATION AREAS

Name & Location Beaches & Marinas	Ownership	BOR Class	Natural Beauty	Potential Uses								Evaluation	
				Historic Sites	Scenic Area	Swimming	Picnicking	Camping	Hiking or Riding	Nature Study	Marina	Competitive Sports	
Haputo Beach	Military	V	1		3	1	1	1	2				A
Hilaan Beach	Military	III	2		1	2	2	2	2				B
Tanguissan Point North & South	Military	III	1		2	1	3	3	3				
Ypao Bay	Territory	II	2		1	1					1		B
Agana Bay	Territory	I	3	3	1	2				1	2		B
Glass Breakwater	Military	II	2		3	1							B
Piti Channel	Military	II	2		2	3		3	1				C
Agat Bay	Territory	II	3		2	2		3	2	1			C
Bangi Point North & South	Territory	VI	2	1	2	2		2					B
Sella Bay	Territory	V	2	1	3	1	2	1	1				B
Cetti Bay	Territory	V	1		3	1	1	1	1				A
Fouha Bay	Territory	III	2	1	3	2	2	2	1				A
Umatac Bay	Territory	II	2	1	2	2				2	2		B
Cocos Island	Military	III	1		1	1	1	3	2				B
Merizo Lagoon	Territory	II	2	3	2	2			3	1			A
Dealey Beach	Territory	II	3		2	2		3					B
Taogam Beach	Territory	III	1		1	3	3						C
INLAND WATER AREAS													
Tarzan Falls	Territory	III	1		2	1	2	3	3				B
Tarzan Swimming Hole	Territory	III	2		2	2	3	3					C

TABLE 6: PUBLIC OWNED POTENTIAL RECREATION AREAS
(cont.)

Name & Location	Ownership	BOR Class	Natural Beauty	Potential Uses							Evaluation		
				Historic Sites	Scenic Area	Swimming	Picnicking	Camping	Hiking or Riding	Nature Study	Marina	Competitive Sports	
Merizo Water Hole	Territory	III	2		3	3							C
Spanish Dikes	Territory	V	3	1	2								B
Asan Springs	Territory		3		1	2							C
Fena Valley Reservoir	Territory	II	1		2	2	1	1	2	3			A
Masso River Dam	Territory	III	3		3	3							C
Asan Spring	Territory	II	3										C
SCENIC OVERLOOKS													
Ritidian Point	Territory	III	1		1	3	3	3					B
Puntan dos Amantes	Territory	IV	1	2	1	3	3						A
Alupan Island	Territory	III	2		2	2	3						C
Pinai Point	Territory	V	1		1	3	1	2					B
Merizo School	Territory	II	1		1	2							C
Toagam Point	Territory	II	1		2	2	3						C
Campananua Point	Territory	III	2		3	2							C
Janum Point	Territory	III	2		3	2							C
Anao Point	Territory	II	1		1	2	1	3					B
Pati Point	Territory	V	1		1	2	1	3					B
Mergagan Point	Territory	V	1		2	2	1	3					B

TABLE 6: PUBLIC OWNED POTENTIAL RECREATION AREAS
(cont.)

Name & Location	Ownership	BOR Class	Natural Beauty	Potential Uses								Evaluation	
				Historic Sites	Scenic Area	Swimming	Picnicking	Camping	Hiking or Riding	Nature Study	Marina	Competitive Sports	
Barrigada Hill	Territory	II	2				2	3					C
SCENIC HIGHWAYS													
Agat-Umatac Highway	Territory	IV	1				1						A
Merizo-Inarajan Highway	Territory	III	1				1						A
Talofofo to Ylig Bay Highway		III	2				2						B
Tamuning to Piti Highway		II	3				3						C
Agat Village Nimitz Beach	Territory	II	2				2						B
Cross Island Route 17	Territory	III	1				2						B
Nimitz Hill Mt. Tenjo	Territory	III	2				3						C
SCENIC TRAILS													
Mt. Lamiam to Inarajan	Territory	V	1				2	1	1	1			A
Nimitz Beach to Umatac	Territory	V	1	1		2	2	1	1	1			A
Campanaya Pt. to Janum Pt.	Territory	V	2			2	2	1	2				B
Nomna Beach to Asiga Beach	Territory	V	2	3		3	2	2	1	2			

TABLE 6: PUBLIC OWNED POTENTIAL RECREATION AREAS
(cont.)

Name & Location	Ownership	BOR Class	Natural Beauty	Potential Uses							Evaluation	
				Historic Sites	Scenic Area	Swimming	Picnicking	Camping	Hiking or Riding	Nature Study	Marina	Competitive Sports
CAVES SITES												
Talofofo Caves	Territory	III	1				2	3	2	2		B
Marbo Cave	Territory	III	2				2	2	2	1	2	B
Ritidian Caves	Territory	III	2				2			2		C
Asiga Cave	Territory	III	3				2	2		2		C
WILDERNESS AREA												
Southern Mountain Area	Territory and Military	V	1				2	1	1	1		A
Jalailai Forest	Territory	V	1	2			3	2	1	1		A
Anao Pt. to Toagam Pt.	Territory	V	1					1	1	1		B

APPENDIX 8 GUAM ENVIRONMENTAL PROTECTION AGENCY
PROGRAMS AND RESPONSIBILITIES

Environment-Related Program	Authority	Mandated Activities	Present Activities
GEPA Pesticides Program	GCG Title LXI Chap I, VI	Guam Pesticides Act	Rules and regulations being promulgated
	Sect. 57124	Issue experimental use permits to test pesticides	Enforcing applicable provisions of NEPA until rules and regulations implemented
	Sect. 57125	Requires pesticide registration for foreign-made pesticides	
	Sect. 57127	Licensing pesticide dealers	
	Sect. 57129	Pesticide labeling requirements	
	Sect. 57130	Requires coloration of certain pesticides	
	Sect. 57132	Provides for "stop-sale" and "removal from sale" orders	
GEPA Area wide Wastewater Management Planning	Sect. 57133	Allows banning of pesticides	
	Public Law 92-500 Sect. 208	Prepare an areawide wastewater master plan.	Increase public awareness and input in water planning
			Infuse water quality goals and objectives into island planning.
			Environmental management
			Non-point source analysis and abatement strategies
GEPA Environmental Impact Program			Plan preparation
	Governor of Guam, Circular No. 112, 6 Nov '76	Designated GEPA as clearinghouse for EIA/EIS	Reviews and comments on all EIA/EIS that will receive federal funds, or require federal permits
	GCG Title VI Chap V	Designates Lieutenant Governor as clearing house for all federal aid programs for Guam	All requests for federal funds go to Lt. Gov. office

Environment-Related Program	Authority	Mandated Activities	Present Activities
GEPA Individual Wastewater Program	GCG Title LXI Chapt. I, II, III, IV		
	Sect. 57061	Requires toilet and sewage facilities for buildings occupied as a dwelling, school, public bldg. commercial bldg. industrial bldg. or place of assembly	Issue Permits in accordance with mandate and regulations for sewer connections and septic tanks
	Sect. 57062	Maintenance of toilet and sewerage system responsibility of owner of property	
	Sect. 57063	Rules for types of sewerage facilities and time allowed to connect to a sewer after it first becomes available	Inspect individual sewerage systems; house to house surveys
	Sect. 57064	Requires inspection and approval by GEPA of all sewerage facilities. No issuance of building permit or certificate of occupancy without prior compliance with Sect.	Review DPW Building Permit Applications Issue form letter clearance for DPW to issue Certificate of Occupancy
	Executive Order 73-9	Regulations for the Connection of toilet and sewer facilities to public sewers	Holds bi-weekly meetings with PUAG, DLM and DPW to work out solutions to mutual problems
	Sect. 57065 to 57072	Standards for various types of sewerage facilities including inspection and approval of facilities before covering	Perform inspections
GEPA Air Program	GCG Title LXI Chap I, V	Air Pollution Control Act	Air Pollution Control Regulations and Standards setup. Notice of violation letters and stop work orders issued.
GEPA Solid Waste Program	GCG Title LXI Chap I, VIII	Solid Waste Management and Litter Control Act.	Working on regulations Will do waste management plans per Federal Waste Recovery Act
		Issue permits for operation of solid waste collection, transport, processing and disposal activities. Issue citations for litter-	

Related Program	Authority	Mandated Activities	Present Activities
Guam EPA Safe Drinking Water Program	GCG Title LXI Chaps I, II, III, & X.		
	Sect. 57022	Well drillers license	Issued according to mandate and regulations Required for new and old wells (see Chaps 4B and 2B of regulations)
	Sect. 57023	Well drilling permit	
	Sect. 57024	Well operation permit	
	Sect. 57029	Supervise sealing of wells to be abandoned	as described in Chap 32 of regulations
	Sect. 57234	Certification of operators of portable water systems	being implemented
Guam EPA Community Wastewater Program	GCG Title LXI Chap. I, II, III, IV, X		Receives applications for 201 grant funds.
	Sect. 57045	Issue permits to control pollution of any waters of the territory	Certify NPDES Permits
	Sect. 57047	Issue water quality standards	Soil Erosion and Sediment Control Regulations and Standards promulgated 5 Dec 75
	Sect. 57048, 57050	Authorized to enforce Water Pollution Control Act. provides for misdemeanor penalties \$1000 /day.	Rules for Protection, Development and Conservation of Water Resources promulgated 19 Sept 75
	Sect. 57064	Requires inspection and approval by GEPA of all sewerage facilities.	Enforcement Letters for Notice of Violation and Stop Work Orders promulgated
	Sect. 57234	Certification of operators of wastewater facilities	Being implemented Comments on clearing and grading permit applications. Requires environmental protection plan by contractors

Environment- Related Program	Authority	Mandated Activities	Present Activities
PA Monitor- ing Division	GCG Title LXI Chap II, III Sect. 57027 57016, 57049	Authorizes inspection and taking of water samples including emergency pro- cedures	Well sampling for potable wa- ter and recreational water uses Spot analysis of water distri- bution system
	Sect. 57103, 57106, 57109	Sampling for air contamina- tion and air pollution of stationary and portable sources of air pollution, including emergency pro- cedures	Monitor stationary sources of air pollution when conditions exist for pollution

APPENDIX 4 ENDANGERED AND THREATENED PLANT SPECIES ON GUAM
ENDANGERED AND THREATENED ANIMAL SPECIES ON GUAM

Appendix

Endangered and Threatened Plant Species on Guam*

- A. Endangered Species - taxa whose numbers have been reduced to a critical level or whose habitats have been so drastically reduced that they are deemed to be in immediate danger of extinction.**
- B. Threatened Species - taxa believed likely to move into the endangered category in the near future if serious adverse factors continue operating.

Endangered Species

Alyxia torresiana
 Angiopteris durvilleana
 Barringtonia samoensis
 Barringtonia racemosa
 Calanthe furcata
 Canthium odoratum
 Capparis cordifolia
 Cyathea lunulata
 Derringingia amaranthoides
 Dendrocnide latifolia
 Dodonaea viscosa
 Drypetes dolichocarpa
 Eugenia bryanii
 Excoecaria agallocha
 Fagraea galilaei
 Grewia crenata
 Hernandia labyrinthica
 Lycopodium phlegmaria
 Maesa sp.
 Melothria guamensis
 Merrilliodendron megacarpum
 Morinda umbellata
 Myoporum boninense
 Nervilia aragoana
 Pisonia umbellifera
 Portulaca pilosa
 Potamogeton lucens
 Psychotria rotensis
 Serianthes nelsonii
 Streblus pendulinus
 Strongylodon sp.
 Tabernaemontana rotensis
 Tarenna sambucina
 Terminalia littoralis
 Trema orientalis var. viridis
 Tristiropsis acutangula
 Xylosma nelsonii

Threatened Species

Avicennia marina var. alba
 Brugiera gymnorhiza
 Cerbera dilitata
 Elaeocarpus sphaericus
 Heritiera longipetiolata
 Leucaena insularum var. guamense
 Lumnitzera littorea
 Nephrolepis acutifolia
 Ophioglossum pendulum
 Rhizophora apiculata
 Rhizophora mucronata
 Suriana maritima
 Tacca leontopetaloides
 Vigna marina

*List prepared by Philip H. Moore.

** Red Data Book Categories, International Union for the Conservation of Nature

Appendix Endangered and Threatened Animal Species on Guam*

Endangered Birds

Sula leucogaster	Brown Booby	Luan
Phaeton lepturus	White-tailed Tropic Bird	Chuchuko
Egretta sacra	Reef Egret	Pulatat
Gallinula chloropus	Common Gallinule	Chunge
Gygis alba	White Fern	Totot
Ptilinopus roseicapillus	Marianas Fruit Dove	Paluman fachi
Gallicolumba xanthanura	White-throated Ground Dove	Sihig
Halcyon cinnamomina	Micronesian Kingfisher	Nganga
Anas oustaleti	Marianas Mallard	Ga-kirriso
Acrocephalus luscini	Nightingale Reed Warbler	Jajaguag, Pagaga
Collocalia vanikorensis	Vanikoro Swiftlet	Chichirika
Rhipidura rufifrons	Rufous-fronted Fantail	Chiguaguan
Myiagra oceanica	Micronesian Broadbill	Aga
Corvus kubaryi	Marianas Crow	Egigi
Myzomela cardinalis	Cardinal Honey-eater	Nossak
Zosterops conspicillata	Bridled White-eye	Bako
Poliolimnas cinereus	White-browed Rail	

Threatened Birds

Rallus owstoni	Guam Rail	Koko
Aplonis opacus	Micronesian Starling	Sali
Ixobrychus sinensis	Chinese Least Bittern	Kakkag
Anous stolidus	Common Noddy	Fahan

Endangered Mammals

Bubalus bubalis	Asiatic Water Buffalo	Karabao
Emballanura semicaudata	Short-tailed Emballanura	Fanihi Tojo
Pteropus tokudae	Little Marianas Fruit Bat	Fanihi
Pteropus mariannus	Marianas Fruit Bat	

Endangered Reptiles

Eretmochelys imbricata	Hawksbill Turtle	Haga Karai
Chelonia mydas	Green Turtle	Hagan Verde
Emoia slevini		
Perochirus aciculatus	Cocos Island Gecko	

Threatened Reptiles

Lepidodactylus lugabris	Gecko	
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APPENDIX 10 FEDERAL CONSISTENCY PROCEDURES

*List prepared by the Endangered and Threatened Species Committee of Guam, 1976.

Guide to Federal Consistency Procedures

<u>Section</u>	<u>Subject/Subheadings</u>
1.	<u>Definitions</u>
2.	<u>Consistency for Federal Activities</u> Identifying Federal Activities directly affecting the coastal zone Federal agency consistency deter- minations for proposed activities Content of a consistency determi- nation Lead Territorial Agency response
3.	<u>Consistency for Activities Requiring a Federal License or Permit</u> Pending Applications Territorial Guidance and Assistance to Applicants Territorial Concurrence with a Consistency Certification Territorial Objection to a Con- sistency Certification
4.	<u>Consistency for Federal Assistance to Territorial Government</u> OMB A-95 Project Notification and Review Consistency Review Pending Applications
5.	<u>Availability of Mediation</u>
6.	<u>Secretarial Review Related to the Objectives or Purposes of the Act and National Security</u>

Federal Consistency Procedures

This appendix provides the procedures to be followed for the Guam Federal Consistency Review process. These procedures are intended to foster inter-governmental coordination and minimize duplicative effort and unnecessary delay, while making certain that the objectives of the federal consistency provisions of the Coastal Zone Management Act are satisfied. Finally, these procedures assure that all Federal and State agency consistency determinations are directly related to the objectives, policies, standards, and other criteria set forth in, or referenced as part of, the approved Guam Coastal Management Program.

The following procedures are largely excerpted, with certain modifications, from the National Oceanic and Atmospheric Administration regulations 15 CFR 930 et seq., "Federal Consistency with Approved Coastal Management Programs," August 29, 1977 which should be used for supplemental explanatory material when needed.

1. Definitions

The term "Act" means the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 seq.).

The term "Section" means a section of the Coastal Zone Management Act of 1972, as amended.

The term "Secretary" means the Secretary of the U.S. Department of Commerce.

The term "Executive Office of the President" means the office, council, board, or other entity within the Executive Office of the President which shall participate with the Secretary in seeking to mediate serious disagreements which may arise between a federal agency and a coastal state.

The term "OCZM" means the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

The term "Associate Administrator" means the Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

The term "Federal Agency" means any department, agency, board, commission, council, independent office or similar entity within the executive branch of the Federal Government, or any wholly owned Federal Government corporation.

The term "management program" means the Territorial coastal management program adopted by Guam in accordance with the provisions of Section 306 of the Act, approved by the Associate Administrator, and which includes objectives, policies, standards, state and local government laws, rules, regulations, plans, or other criteria set forth within or referenced as being part of the program, at the time of approval, subsequent amendment, or refinement to guide public and private uses of resources within Guam's coastal zone.

The term "coastal zone" means the coastal zone as defined in Guam's management program, that is, the entire island with the exception of excluded federal lands. All lands owned, leased or whose use is otherwise by law subject solely to the discretion of the Federal Government, as well as lands held in trust by the Federal Government, are excluded from the coastal zone.

Federal activities including development projects undertaken on excluded Federal lands which "directly affect the coastal zone," and Federal license, permit and assistance activities on such lands which "affect the coastal zone" are subject to the Federal consistency requirements of the Act and require review to determine consistency with the approved management program.

By excluding Federal lands from the coastal zone for the purposes of the Act, the Territory does not relinquish or in any way impair its rights or authority over Federal lands that exist outside of the context of the coastal management program.

2. Consistency for Federal Activities

The provisions of this Subpart are provided to assure that all Federal activities including development projects directly affecting the coastal zone are undertaken in a manner consistent to the maximum extent practicable with approved State coastal management programs.

- (a) The term "Federal activity" means any functions performed by or on behalf of a Federal agency in the exercise of its statutory responsibilities.
- (b) A Federal development project is a Federal activity involving the planning, construction or modification of public works, physical facilities, or other structures, and land and water resource development, or water resources.
- (c) The term "Federal activity" does not include the issuance of a Federal license or permit to an applicant or person, or the granting of Federal assistance to an applicant agency.

Procedures for these latter types of activities are provided in other sections of this discussion of consistency procedures.

- (d) The term "directly affecting the coastal zone" describes the coastal zone effect caused by a Federal activity which is sufficient to trigger Federal agency responsibility for making a consistency determination and notifying the State agency of such determination.
- (e) A Federal activity will directly affect the coastal zone if the activity causes significant (i) changes in the manner in which waters, lands, or other coastal zone resources are used, (ii) limitations on the range of uses of coastal zone resources, or (iii) changes in the quality of coastal zone resources. The significance of the effect on the coastal zone shall be considered in terms of the primary, secondary, and cumulative consequences of the activity. A Federal activity which causes significant changes in or limitations on coastal zone resources directly affects the coastal zone even when the activity causes both beneficial and detrimental effects, and on balance the Federal agency determines that the effect will be beneficial.
- (f) The term "consistent to the maximum extent practicable" describes the requirement for Federal activities directly affecting the coastal zone of the Territory to be consistent with such programs except to the extent that deviations are justified because some unforeseen circumstance arising after the approval of the management program present the Federal agency with a substantial obstacle that prevents complete adherence to the approved program.
- (g) The term "consistent to the maximum extent practicable" shall be construed in conjunction with the provisions of Section 307(e). Sections 307(c) (1) and (2), and 307(e), when read together, preserve for each Federal agency the responsibility for carrying

out its statutory obligations subject to the additional requirements imposed by the Act. Therefore, each Federal agency shall consider the Guam coastal program as supplement requirements to be adhered to in addition to existing agency mandates, and shall conduct Federal activities directly affecting the coastal zone in a manner consistent to the maximum extent practicable with approved management program. Unless compliance with the management program is prohibited based upon the requirements of existing law applicable to the agency's operations. If a Federal agency asserts that compliance with the management program is prohibited, it must clearly describe to the Bureau of Planning the legislative provisions, legislative history, or other legal authority which limits the Federal agency's discretion to comply with the requirements of the management program.

Identifying Federal activities directly affecting the coastal zone.

- (a) Federal agencies shall determine which of their activities directly affect the coastal zone of Guam.
- (b) Federal agencies shall consider all development projects within the coastal zone to be significant activities directly affecting the coastal zone. All other types of activities within the coastal zone are subject to Federal agency review to determine whether they directly affect the coastal zone.
- (c) Federal activities outside of the coastal zone (e.g., on excluded Federal lands) are subject to Federal agency review to determine whether they directly affect the coastal zone.

Federal agencies should determine whether a Federal activity outside of the coastal zone directly affects coastal zone resources by considering the location, magnitude and type of activity contemplated. A direct effect usually will be found when the proposed activity is large in magnitude and is adjacent or in close proximity to the coastal zone. The smaller the magnitude of the activity and the further it is from the coastal zone, the less likely is the potential for significant effects on coastal zone resources. However, even in cases where a proposed activity is a great distance from the coastal zone, the Federal agency must still make a consistency determination and notify the Bureau of Planning of such determination if the proposed activity will directly affect the coastal zone (e.g., Upland stream modification significantly affecting the quality of coastal waters). For the purposes of Guam's Coastal Management Program, "coastal zone" is defined to include the entire island with the exception of excluded Federal lands. To the extent that Federal activities on these excluded Federal lands have spillover effects on adjacent areas of Guam, Federal agency consistency determinations will be required. Federal agencies are encouraged to refer to the Council on Environmental Quality's guidelines in 40 CFR Part 1500 for assistance towards developing a method for identifying Federal activities directly affecting the coastal zone. Guam's Bureau of Planning staff will work closely with Federal land holders on the island to assist in the identification of Federal activities expected to affect coastal resources. Every effort will be made in this coordination effort to avoid consistency reviews for Federal activities which will normally have minimal and insignificant impacts on coastal resources, both in an individual and accumulative sense. Guam Bureau of Planning will monitor unlisted Federal activities by use of the A-95 process and NEPA impact statement review, and will notify Federal agencies of unlisted Federal activities which Federal agencies have determined are not subject to consistency review, but which in the opinion of the Bureau of Planning directly affect the coastal zone and require a Federal agency consistency determination. The Bureau will notify Federal agencies within 45 days from notice of the unlisted Federal activity, or waive its right to request a consistency determination.

If a Federal agency decides that a consistency determination is not required for a Federal activity (i) identified by the Territory on its list or through case-by-case monitoring, or (ii) which is the same as or similar to activities for which consistency determinations have been prepared in the past, the Federal agency shall provide the Bureau of Planning with a notification, at the earliest practicable time in the

planning of the activity, briefly setting forth the reasons for its negative determination. A negative determination shall be provided to the Bureau at least 90 days before the proposed activity reaches a decision stage likely to restrict the use of alternative measures for undertaking the activity, unless both the Federal agency and the Bureau agree to an alternative notification schedule.

A determination that a proposed Federal activity directly affects the coastal zone leads to two significant benefits. First, this finding requires the Federal agency to review the activity to assure that it will be undertaken in a manner consistent to the maximum extent practicable with an approved management program; and second, the consistency determination will provide the Bureau with an opportunity to review and comment on the proposed activity, and will assist the Territory in planning for and managing the anticipated coastal zone effects. Given the benefits to be derived from this process, Federal agencies are encouraged to construe liberally the "directly affecting" test, in a manner which favors inclusion of activities subject to consistency review.

Federal agency consistency determinations for proposed activities

Federal agencies shall review their proposed Federal activities which directly affect the coastal zone in order to develop consistency determinations which indicate whether such activities will be undertaken in a manner consistent to the maximum extent practicable with approved Territorial management programs. Federal agencies are encouraged to consult with the Bureau of Planning during their efforts to assess whether such activities will be consistent to the maximum extent practicable with such programs.

In cases where Federal agencies will be performing an activity other than a development project (e.g., issuing regulations or regional directives regarding resource management practices), the agency may develop one general consistency determination thereby avoiding the necessity of issuing separate consistency determinations for each incremental action controlled by the major activity. If a Federal agency decides to issue a general consistency determination, it shall thereafter periodically consult with the Bureau of Planning to discuss the manner in which the major activity is being undertaken.

In cases where the Federal agency has sufficient information to determine the consistency of a proposed development project from planning to completion, only one consistency determination will be required. However, in cases where major Federal decisions related to a proposed development project will be made in phases based upon developing information, which each subsequent phase supplemental alternative decisions based upon such information (e.g., planning, siting, and design decisions), a consistency determination will be required for each major decision. In cases of phased decision-making, Federal agencies shall ensure that the development project continues to be consistent to the maximum extent practicable with the Territory's management program.

A consistency determination will be required for ongoing Federal activities other than development projects (e.g., resource management practices) initiated prior to management program approval, which are governed by statutory authority under which the Federal agency retains discretion to reassess and modify the activity. In these cases the consistency determination must be made by the Federal agency at the earliest practicable time following management program approval, and the Bureau of Planning must be provided with a consistency determination no later than 120 days after program approval for ongoing activities which the Bureau identifies as subject to consistency with the management program.

A consistency determination shall be required for major, phased Federal development project decisions which are made following management program approval and are related to development projects initiated prior to program approval. In making these new decisions, Federal agencies shall consider coastal zone effects not fully evaluated at the outset of the project. This provision shall not apply to phased Federal decisions which were specifically described, considered, and approved (e.g., in a final environmental impact statement issued pursuant to the National Environmental Policy Act) prior to management program approval.

Federal agencies shall provide the Bureau with consistency determinations for all Federal activities directly affecting the coastal zone. The Federal agency may provide the Bureau with this information in any manner it chooses so long as the requirements of this section (Consistency for Federal Activities) are satisfied.

The Bureau of Planning will discuss with the Federal agencies the techniques that may be used to provide the Bureau with consistency determinations. Recommended techniques are such familiar procedures as A-95 review, NEPA-Environmental impact statements, memoranda of understanding, etc.

Federal agencies shall provide the Bureau of Planning with a consistency determination at the earliest practicable time in the planning or reassessment of the activity. A consistency determination should be prepared following development of sufficient information to determine reasonably the consistency of the activity with the Territory's management program, but before the Federal agency reaches a significant point of decision-making in its review process. The consistency determination shall be provided to the Bureau of Planning at least 90 days before the Federal activity reaches a decision stage likely to restrict the use of alternative measures for undertaking the activity, unless both the Federal agency and the Bureau agree to an alternative notification schedule.

Content of a consistency determination.

The consistency determination shall include a statement indicating whether or not the proposed activity will be undertaken in a manner consistent to the maximum extent practicable with the management program and a discussion relating to coastal zone effects of the activity to the relevant elements of the management program. The consistency determination shall also include a detailed description of the activity and comprehensive data and information sufficient to support the Federal agency's consistency decision. The amount of detail provided in the description and in the supporting information shall be commensurate with the expected effects of the activity on the coastal zone.

In making its consistency determination, the Federal agency shall be guided by the examples set in NOAA regulations 15 CFR 930.40.

When Federal agency standards are more restrictive than standards or requirements contained in Guam's management program, the Federal agency may continue to apply its stricter standards (e.g., restrict project development or design alternatives notwithstanding permissive management program policies). In such cases, the Federal agency should inform the Bureau in the consistency determination of the statutory, regulatory or other basis for the application of the stricter standards.

Whenever more than one Federal agency is involved in a Federal activity directly affecting the coastal zone, or is involved in a group of such activities related to each other because of their functional interdependence or geographic proximity, consideration should be given to the preparation of one consistency determination for all the Federal activities involved. In such cases, Federal agencies should consider joint preparation or lead agency development of the consistency determination. In either case, the consistency determination (i) must be transmitted to the Bureau of Planning at least 90 days before major decisions are taken by any of the participating agencies, (ii) must indicate whether or not each of the proposed activities is consistent to the maximum extent practicable with the management program, and (iii) must include information on each proposed activity sufficient to support the consistency determination.

Lead Territorial agency response.

The Bureau of Planning will inform the Federal agency of its agreement or disagreement with the Federal agency's consistency determination at the earliest practicable time. If a final response has not been developed and issued within 45 days from receipt of the Federal agency notification, the Bureau will at that time inform the Federal agency of the status of the matter and the basis for further delay. The Federal agency may presume Territorial agreement if the Bureau fails to provide a response within 45 days from receipt of the Federal agency notification.

Bureau of Planning agreement shall not be presumed in cases where the Bureau, with the 45 day period, requests an extension of time to review the matter. Federal agencies shall approve one request for an extension period of 30 days or less. In considering whether a longer or additional extension period is appropriate, the Federal agency should consider the magnitude and complexity of the information contained in the consistency determination.

In the event the Territory disagrees with the Federal agency's consistency determination, the Bureau shall accompany its response to the Federal agency with its reasons for the disagreement and supporting information. The Bureau of Planning response will describe (i) how the proposed activity will be inconsistent with specific elements of the management program, and (ii) alternative measures (if they exist) which, if adopted by the Federal agency, would allow the activity to proceed in a manner consistent to the maximum extent practicable with the management program.

The Bureau will send to the Associate Administrator a copy of responses which describe disagreements with Federal agency consistency determinations.

In the event of a disagreement, the Federal and Territorial agencies should utilize the remaining portion of the 90-day notice period to attempt to resolve their differences. In cases of continuing Territorial agency disagreement, Federal agencies are encouraged to suspend implementation of the activity beyond the 90-day period pending resolution of the disagreement.

3. Consistency for Activities Requiring a Federal License or Permit

The provisions of this Subpart are provided to assure that Federally licensed or permitted activities affecting the coastal zone are conducted in a manner consistent with the approved management program.

The term "Federal license or permit" means any authorization, certification, approval, or other form of permission, and any removal thereof, which any Federal agency is empowered to issue to an applicant.

The term "applicant" means any individual, public, or private corporation, partnership, association, or other entity organized or existing under the laws of any State, regional, or local government who has applied for but has not yet received a Federal license or permit to conduct an activity affecting the coastal zone. The term "applicant" does not include Federal agencies applying for Federal licenses or permits. Federal agency "activities" requiring Federal licenses or permits are subject to the consistency requirements of the Subpart entitled "Consistency for Federal Activities."

The term "affecting the coastal zone" describes the coastal zone effect caused by a Federal license or permit activity which will trigger the applicant's responsibility for complying with the Federal consistency procedures of this Subpart. The criteria set forth within 930.32 for determining whether a Federal activity "directly affects the coastal zone" apply to this determination. In addition, State agencies have the option of using a more expansive definition of "significant effect" to cover a broad range of resource, social, and economic effects which are considered in the management program to be significant. For the purposes of its coastal management program, Guam chooses to use the more expansive definition of "significant effect." By using this term in a broad fashion, the result will be increased ability for Guam to review proposed Federal license and permit activities. This ability to review Federal license and permit actions should be distinguished from the issue of whether or not the proposed activity is consistent with the requirements of the management program. Concurrence with or objection to the consistency of the activity must still be related to the requirements of the management program. The benefit of an expansive application of this term is that it will assist the State in planning for and managing the significant coastal zone effects resulting from consistent Federal license and permit activities.

A list of licenses and permits is attached to the procedures for activities affecting the coastal zone that the Bureau of Planning wants to review for consistency with the management program.

FEDERAL LICENSES AND PERMITS SUBJECT TO NOTIFICATION AND REVIEW
PROCEDURES UNDER GUAM'S COASTAL MANAGEMENT PROGRAM

U. S. Army Corps of Engineers

- (a) 33 USC 403-404 Excavation & fill permits, construction in navigable waters
- (b) 33 USC 1344 Dredge and fill permits
- (c) 33 USC 1401 et seq. Ocean dumping permit

Department of Commerce

- (a) 16 USC 1431 et seq Marine sanctuaries

Environmental Protection Agency

- (a) 33 USC 1251 National Pollution Discharge Elimination System Permits
- (b) 42 USC 1857 et seq. Clean air

Department of Interior

- (a) 16 USC 3 Construction of visitor facilities at National Park service Land
- (b) 16 USC 5 Rights of way for electrical transmission on National Park Service Land

Department of Transportation

- (a) 33 USC 401 Construction and modification of bridges and causeways in navigable waters (Coast Guard)
- (b) 33 USC 419 Hazardous substances and materials (Coast Guard)
- (c) 23 USC 193 (f) Highway reclassification (FHWA)
- (d) 23 USC 105 Federal Aid Highway Act - approval of projects submitted in annual programs of projects (FHWA)
- (e) 23 USC 106 (a) Plans, specifications and estimates approvals for Federal aid highway projects (FHWA)
- (f) 49 USC 1716, 1718 Airport and Airway Development Act, 1970 - airport development, runway location/extension (FAA)

This license and permit list may be refined by the Bureau of Planning following consultation with the affected Federal agency and approval of additions or deletions by the Associate Administrator. The Bureau shall provide copies of the list and any refinements to Federal agencies and shall make the information available to the public.

No Federal license or permit on an approved list shall be issued by a Federal agency until the requirements of this Subpart have been satisfied.

The Bureau will monitor unlisted federal license and permit activities (e.g., by use of OMB Circular A-95 review, review of NEPA environmental impact statements, etc.) and will immediately notify federal agencies and applicants of unlisted activities significantly affecting the coastal zone which require Territorial agency review. The Bureau will inform the Federal agency and applicant within 45 days from notice of the license or permit application, or the Bureau waives its right to review the unlisted activity. Notification will also be sent by the State agency to the Associate Administrator.

If the Bureau of Planning notifies a Federal agency and applicant of an unlisted license or permit activity requiring Territorial review, the Federal agency may not issue the license or permit until the requirements of this Subpart have been satisfied, unless the Associate Administrator disapproves the Bureau's decision to review the activity. The Associate Administrator's approval shall be presumed if no objection is issued to the State agency by the Associate Administrator within 15 days from receipt of the notice. In the event of an objection, the Associate Administrator shall send copies to the applicant and Federal agency.

Following receipt of the agency notice and presumed approval by the Associate Administrator, the applicant shall comply with the consistency certification procedures of this Subpart. The Bureau will be entitled to a 6-month review period beginning from the date of the original notice.

Pending Applications

The Bureau of Planning will notify Federal agencies, applicants and the Associate Administrator within 45 days of management program approval of a decision to review pending applications for listed or unlisted Federal licenses and permits; otherwise, the Bureau waives its right to review such activities.

If within the permitted time period the Bureau notifies a Federal agency and applicant of its decision to review a pending application, the Federal agency shall not issue the license or permit until the requirements of this Subpart have been satisfied, unless the Associate Administrator disapproves the Territory's decision to review the activity. The Associate Administrator's approval or objection shall be indicated in accordance with the procedures described in NOAA regulations 15 CFR 930.55(b).

Following receipt of the Bureau of Planning notice and presumed approval by the Associate Administrator, the applicant shall comply with the consistency certification procedures on this Subpart. The Territory will be entitled to a 6-month review period beginning from the date of the original notice of the license or permit application, except that regardless of the notification date, the Bureau shall have, at a minimum, a period of review for the three months following management program approval.

Failure of an applicant to provide the Bureau of Planning, in a timely manner, with a consistency certification, or sufficient information with which to make a consistency determination, constitutes sufficient grounds for Territorial objection to an applicant's consistency certification, or a negative determination of consistency if a certification was not supplied.

Territorial Guidance and Assistance to Applicants.

As a preliminary matter, any applicant for a Federal license or permit selected for review by the Bureau should obtain the views and assistance of that agency regarding the means for ensuring that the proposed activity will be conducted in a manner consistent with Guam's management program. The Bureau of Planning may develop requirements regarding the data and information necessary to assess the consistency of federal license and permit activities. Territorial agency information requirements are subject to approval by the Associate Administrator. Required data and information shall not include confidential and proprietary material.

All applicants for Federal licenses and permits subject to Territorial review shall provide the Federal agency with a consistency certification along with the Federal application, and shall furnish the Bureau of Planning with a copy of the consistency certification.

The consistency certification shall describe whether or not the proposed activity will be conducted in a manner consistent with Guam's management program and shall contain a discussion relating to coastal effects of the activity to the relevant elements of the management program. In developing the consistency certification, the applicant shall be guided by the examples described in NOAA regulations 15 CFR 930.40(b). Upon request of the applicant, the State agency may provide assistance for developing the consistency certification.

The consistency certification shall be accompanied by a detailed description of the proposed activity and information and data sufficient to support the applicant's consistency certification. At the request of the applicant, the Federal agency or other interested parties may provide the Bureau with all or part of the information required.

When satisfied that adequate protection against public disclosure exists, applicants are encouraged to provide the Bureau of Planning with confidential and proprietary information which the Bureau maintains is necessary to make a reasoned decision on the consistency of a proposed activity.

Applicants are encouraged to consolidate related Federal license and permit activities affecting the coastal zone for Bureau's review. The Bureau plans to provide applicants with a "one-step" multiple permit review to minimize duplication of effort and to avoid unnecessary delays.

Except as provided in procedures for pending applications and unlisted permit and license activity, Territorial review of an applicant's consistency certification begins at the time the Bureau of Planning receives a copy of the consistency certification and associated required information and data. The applicant shall provide public notice of the proposed activity in a newspaper of general circulation in Guam unless similar notice is provided by the responsible Federal agency's permitting procedures. Such notice shall facilitate public comment by providing a summary of the proposed activity, by announcing the availability for inspection of the consistency certification and accompanying public information and data, and by requesting that comments be submitted to the Bureau of Planning.

At the discretion of the Territory, public notice may include announcement of one or more public hearings. When possible and appropriate, Federal-Territorial joint hearings will be held.

Territorial Concurrence with a Consistency Certification.

At the earliest practicable time, the Bureau of Planning will notify the Federal agency and the applicant whether the Bureau shall be conclusively presumed in the absence of a Bureau of Planning objection within six months following commencement of Territorial review. If the Bureau has not issued a decision within three months following commencement of review, it will notify the applicant and the Federal agency of the status of the matter and the basis for further delay.

If the Bureau issues a concurrence or is conclusively presumed to concur with the applicant's consistency certification, the Federal agency may approve the Federal license or permit application. Notwithstanding State agency concurrence with a consistency certification, the Federal permitting agency may deny approval of the Federal license or permit application.

Territorial Objection to a Consistency Certification.

If the Bureau of Planning objects to the applicant's consistency, certification within six month following commencement of review, it will notify the applicant and Federal agency of the objection.

The Bureau's objections will describe (i) how the proposed activity is inconsistent with specific elements of the management program, and (ii) alternative measures (if they exist) which, if adopted by the applicant, would permit the proposed activity to be conducted in a manner consistent with the management program.

During the period when the Bureau of Planning is reviewing the consistency certification, the applicant and the Bureau should attempt to agree upon conditions which, if met by the applicant, would permit the Bureau's concurrence. The parties should also consult with the Federal agency responsible for approving the Federal license or permit to ensure that proposed conditions satisfy federal as well as Territorial management program requirements.

A Territorial objection may be based upon a determination that the applicant has failed to supply the information required. If the Bureau objects on the grounds of insufficient information, the objection will describe the nature of the information requested and the necessity of having such information to determine the consistency of the activity with the management program. If necessary existing information is being withheld by the applicant, the parties should attempt to agree upon conditions which would permit submission of such information (e.g., Bureau of Planning protection of confidential information from public disclosure). If sufficient information is simply not available at the time of review, the parties should attempt to agree upon conditions for monitoring the activity, and for providing the Bureau with further information as it becomes available. In these special cases, the Bureau may conditionally concur and reserve the right to object and compel modifications, or withdraw its concurrence if monitoring discloses that the activity is not consistent with the management program.

A Territorial objection will include a statement informing the applicant of a right of appeal to the Secretary and the Bureau will send a copy of the objection to the Associate Administrator.

4. Consistency for Federal Assistance to Territorial Government.

The provisions of this Subpart are provided to assure that Federal assistance to the Territorial government for projects affecting the coastal zone is granted only when such activities are consistent with the approved coastal management program.

The term "Federal assistance" means assistance provided under a Federal program to an applicant agency through grant or contractual arrangements, loans, subsidies, guarantees, insurance, or other form of financial aid.

The term "applicant agency" means the Territorial government, or any related public entity such as a special purpose district, which intends to apply for, or which has applied for but has not yet received Federal assistance.

The term "affecting the coastal zone" describes the effect caused by a Federal assistance project which will trigger the applicant agency's responsibility for complying with the Federal consistency procedures of this Subpart.

The term "OMB A-95 process" describes the project notification and review procedures set forth in the Office of Management and Budget Circular A-95 for the evaluation, review and coordination of Federally assisted programs (41 FR2052 (1976)).

Federal regulations require a description of the geographic area (e.g., within the coastal zone, within coastal counties, etc.) where Federal assistance projects will be deemed to affect the coastal zone. Since Guam's "Coastal Zone" is defined as including the entire island, Federal assistance projects throughout the Territory are subject to the qualifications of this Subpart.

OMB A-95 Project Notification and Review.

Pursuant to the OMB A-95 process, an applicant agency shall notify the Territorial clearinghouse of its intent to apply for Federal assistance for a project.

The applicant agency shall utilize the OMB A-95 process for every major funding phase of the Federal assistance project entailing substantial modifications to previously reviewed phases (e.g., planning and design).

The clearinghouse shall ensure that the Bureau of Planning is afforded an opportunity to review a notification for a project to determine whether the project is consistent with the management program.

Consistency Review.

If pursuant to the OMB A-95 process, the Bureau does not object to the proposed project, the Federal agency may grant the Federal assistance to the applicant agency. Notwithstanding Territorial agency consistency approval for the proposed project, the Federal agency may deny assistance to the applicant agency.

If pursuant to the OMB A-95 process, the Bureau objects to the proposed project, the clearinghouse shall notify the applicant agency and the Federal agency of the objection.

Bureau of Planning objections must describe (i) how the proposed project is inconsistent with specific elements of the management program, and (ii) alternative measures (if they exist) which, if adopted by the applicant agency, would permit the proposed project to be conducted in a manner consistent with the management program.

Bureau objections shall include a statement informing the applicant agency of a right of appeal to the Secretary on the grounds described in 15 CFR 930.120 et seq., and a copy of the objection shall be sent to the Associate Administrator. Following receipt of a State agency objection, the Federal agency shall not approve assistance for the project except as provided in 15 CFR 930.120 et seq.

Pending Applications.

The Bureau of Planning must notify Federal agencies, applicant agencies, Territorial clearinghouse and the Associate Administrator within 45 days of management program approval of objections to pending applications for proposed Federal assistance projects affecting the coastal zone, otherwise the lead agency waives its right to object to such projects.

If within the permitted time period the Bureau notifies a Federal agency of its objection to a proposed Federally assisted project, the Federal agency shall not provide assistance to the applicant agency except as provided in 15 CFR 930.120 et seq., unless the Associate Administrator disapproves the Bureau's decision to review the project. The Associate Administrator's approval or objection shall be indicated in accordance with the procedures described in 15 CFR 930.99 (b)

In instances where the Bureau of Planning chooses to review pending applications, it shall consider carefully the time and resources invested by the applicant agency prior to management program approval.

5. Availability of Mediation.

NOAA regulations describe mediation procedures which Federal and Territorial agencies may use to attempt to resolve serious disagreements that arise during the administration of approved management programs (15 CFR 930.110-116).

The Territory's lead agency for coastal zone management, the Bureau of Planning, will make every effort to informally resolve disagreements that may arise among agencies in the implementation of the coastal program. In the rare instance in which cannot be resolved at a lower level of authorities, the Secretary or other head of a Federal agency, or the Governor or the lead coastal management agency may notify the Secretary of Commerce in writing of the serious disagreement and may request that the Secretary seek to mediate.

Seven instances are cited in NOAA regulations at which such serious disagreements could occur, they are:

- (1) regarding a determination related to whether a proposed activity directly affects the coastal zone;
- (2) regarding the consistency of a proposed Federal activity directly affecting the coastal zone;
- (3) regarding previously determined federal activities to be consistent to the maximum extent practicable with the management program, but which the latter maintains is being conducted or is having a coastal zone effect substantially different than originally proposed and, as a result, is no longer consistent to the maximum extent practicable with the Territory's management program, or previously determined not to be a Federal activity directly affecting the coastal zone, but which the Bureau later maintains is being conducted or is having a coastal zone effect substantially different than originally proposed and, as a result, the activity directly affects the coastal zone and is not consistent to the maximum extent practicable with the management program;
4. regarding whether a listed or unlisted Federal license or permit activity is subject to consisting review;
5. regarding circumstances parallel to instance (3), but related to a Federally licensed permitted activity;
6. regarding whether a Federal assistance project is subject to consistency review; and
7. regarding circumstances parallel to instances (3) and (5), but related to a Territorial agency objection to a Federally assisted project

Full procedures for mediation are provided in NOAA regulations, as cited above. It should be noted, however, that the mediation process is a voluntary one; the Secretary will not provide mediation assistance unless all parties to the disagreement agree to participate.

6. Secretarial Review Related to the Objectives or Purposes of the Act and National Security.

NOAA regulations (15 CFR 930.120-134) provide procedures by which the Secretary may find that a Federal license or permit activity, or a Federal assistance project, which is inconsistent with a management program, may be Federally approved because the activity is consistent with the objective or purposes of the Act, or is necessary in the interest of national security. The reader is referred to those procedures for details.

APPENDIX II TEXT OF LEGAL AUTHORITIES

INDEX TO LEGAL AUTHORITIES

1. Comprehensive Planning Enabling Legislation, as amended by P.L. 13-89 and Bill. No. 377 (P.L.12-200)
2. Land Use Districts and Areas of Particular Concern as proposed in Bill No. 233
3. Zoning Law
4. Subdivision Law, as amended by P.L. 13-69
5. Guam Territorial Seashore Protection Act, as amended by P.L. 13-52 and 13-154
6. Executive Order 75-2, creating Subdivision and Development Review Committee
7. Guam Natural Resources Board, GCG Section 13251-13253
8. Chamorro Land Trust Commission, P.L. 12-226 (repealed former Chapters VI, VII, VIII and XI of Title XIV of GCG)
9. Public Rights provisions, GCG Sections 13980- 13982
10. U.S. P.L. 93-435, Submerged Lands
11. Parks and Recreation Enabling Legislation, as amended by P.L. 14-12
12. Historical Objects and Sites
13. Territorial Beach Areas Act
14. Game and Fish Laws
15. Coral Harvesting Laws
16. Endangered and Threatened Species Law
17. Guam Land Conservation Act (Agricultural Preserves)
18. Guam Energy Office Enabling Legislation
19. U.S. P.L. 86-664, Paseo de Susana
20. Seashore Protection Commission Rules and Regulations

agencies, departments, boards, commissions and other instrumentalities of the Territorial Government shall review their present plans, policies, administrative regulations and current planning policies and procedures to determine whether there is any duplication, any deficiencies or inconsistencies therein which prohibit or tend to prohibit the coordination between them and the purposes and provisions of this Chapter and shall propose to the Council each January such measures as may be necessary to bring their planning authority and policies into conformity with the intent, purposes, and procedures set forth in this Chapter. All master plans, development plans, long-range plans, and the like prepared by public agencies, will be required to be submitted to the Council for processing as part of the comprehensive planning program. Emphasis will be placed on the continuing nature of the comprehensive plan program rather than a final compiling of a single plan. The Council may assign, with concurrence of the Director or head of agency involved, planning staffs or portions thereof of staff or line agencies who shall prepare portions of the plan under the supervision of the Director of Planning.

§ 62015. Plan review. Comprehensive Plan Elements, prepared by the various public agencies, will be submitted to the Council for review. Following recommendation by the Council, Plan elements will be transmitted to the Territorial Planning Commission (hereinafter called TPC) for public hearing and subsequent transmittal to the Governor by the TPC with a summary of public hearing testimony and TPC recommendations.

§ 62016. Plan adoption. Comprehensive Plan elements received by the Governor from the TPC may be approved, disapproved or referred to the Council for further recommendation prior to approval. Following approval by the Governor, Plan elements shall be submitted to the Guam Legislature for adoption by resolution.

§ 62017. Bureau of Planning. There is created within the Office of the Governor, the Bureau of Planning, hereinafter referred to as BP) to serve as staff for the Council and to administer central planning functions. The Director of the BP will carry the title Director of Planning and shall be a person who as a result of his training, experience, and attainments is exceptionally well qualified to analyze and interpret development trends and information of all kinds, to appraise and coordinate planning programs and supervise the execution of the responsibilities of the Council in accordance with the policies set forth in this Chapter. The Director's salary shall be not less than Twenty-Six Thousand Dollars (\$26,000) per annum. He shall be responsible for the administration of this Chapter and shall supervise the BP staff which, in addition to its regular duties, shall serve the Council.

§ 62018. Same; staff organization. The BP staff shall be organized into several divisions, sections, or units such as is sufficient to

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TITLE LXV, LXVI CHAPTER II

Comprehensive Planning

- § 62010. Legislative findings.
- § 62011. Central Planning Council.
- § 62012. Council responsibilities.
- § 62013. Coordination of functional responsibilities.
- § 62014. Plan review.
- § 62015. Plan adoption.
- § 62016. Bureau of Planning.
- § 62017. Same; staff organization.
- § 62018. Same; staff organization.
- § 62019. Same; staff organization.
- § 62020. Plan content.
- § 62021. Severability.

§ 62010. Legislative findings. The people of Guam, finding that the island is experiencing unprecedented economic, physical and population growth without any comprehensive planning program, that this undisciplined growth jeopardizes the historic, cultural, and natural aspects of their island heritage, threatens to lower their quality of life, exploits their natural resources and often misdirects their fiscal resources, hereby declare that the Government of Guam shall initiate a systematic, continuous far-sighted planning policy which shall utilize the best intelligence available to:

- (a) identify territorial goals and objectives;
- (b) propose long-range plans to reach those territorial goals and objectives;
- (c) coordinate the planning of all governmental and non-governmental activities with a dynamic comprehensive development plan; and
- (d) provide factual data, projections, and analyses to assist policy makers in the selection of programs and the establishment of priorities.

§ 62011. Comprehensive planning objectives. Initial objectives, which will be amended and expanded as conditions warrant, are:

- (a) to determine the extent that our natural resources limit urban and rural development;
- (b) to plan for the preservation of the natural charm and character of Guam within the framework of a growing population and modern technology;
- (c) to establish generalized areas of use within an urban, rural, agricultural, conservation, and resort context;
- (d) to provide a development pattern that enhances the comfort, convenience and economic welfare of the individual;
- (e) to prepare land capability criteria, as a basis for real property evaluation that tends to equitize the divergent qualities of location;
- (f) to reappraise the total land tenure of the territory and provide

appraise, coordinate and assist in the preparation of long-range planning programs for the social, economic and physical development of the territory of Guam. Expertise, either singly or collectively, should be evident in such areas as community facilities, conservation, cultural development, demography, economics, education, environment, finance, infrastructure, land utilization, natural resources, transportation, urban and rural design, and utilities. Preparation of planning elements, not the duty and function of staff and line agencies, shall be the responsibility of the BP staff.

§ 62019. BP Powers. In the execution of its responsibilities under this Chapter, the BP is authorized to perform the following functions:

- (a) to apply for and accept grants, loans, contributions, appropriations and assistance from the Federal Government and from any other sources, public or private, and enter into and carry out contracts or agreements in connection therewith, and include in any contract for financial assistance with the Federal Government any reasonable and appropriate and which are not inconsistent with the purposes of this Chapter and the laws of the Territory;
- (b) to contract for any professional services if such work or services cannot satisfactorily be performed by its employees;
- (c) to conduct, or cause to be conducted, investigations, studies, surveys, research and analysis relating to physical, human, social, and economic development of the community and to publish the results thereof;
- (d) to develop and recommend territorial policies to foster and promote the improvement of planning activity and development quality;
- (e) to prepare, or cause to be prepared in conjunction with the Comprehensive Program and Financial Plan, a comprehensive development plan hereinafter called "plan", which shall provide long range guidance for the social, economic, and physical development of the territory, and which shall contain a statement of development objectives, standards and principles with respect to the most desirable use of land within the Territory for residential, recreational, agricultural, commercial, industrial, and other use completely serviced by an access and circulation network and infrastructure consistent with proper protection to enhance the quality of the environment and preserve Guam's natural beauty and historical heritage;
- (f) to submit the plan to the Territorial Planning Commission for public hearing as provided in Chapter 3, Title XIV of the Government Code of Guam;
- (g) to utilize to the fullest extent possible, the services, facilities and information of public and private agencies and organizations and individuals in order that duplication of effort and expenses may be avoided;
- (h) to review, appraise and make such use as it sees fit of all existing plans and those presently being prepared; and
- (i) to develop an information system and data bank for the continual collection and storage of public information utilized in the development plan process.

guidelines for relocation of residential or inappropriate major uses, and to plan for the development and extension of the infrastructure and transportation facilities.

(b) to plan for a high quality environment essentially free from pollution and with adequate and well-kept open space throughout our varying activity centers.

(c) to prepare criteria of subdivided neighborhoods and identify areas that meet criteria levels.

(d) to recommend creative legislation regulating our use of land for the protection of future generations.

§ 62012. Central Planning Council. Creation and membership.

(a) There is created in the Government of Guam a Central Planning Council, hereinafter referred to as "Council", consisting of seven members to be appointed by the Governor from heads of departments or agencies of the government of Guam. The Attorney General or his authorized designee shall act as legal counsel to the Council.

(b) The Director of Planning shall be the Chairman of the Council.

(c) Council members may be represented by designees at meetings but only members or those officially acting for the members may cast a vote.

§ 62013. Council responsibilities. The Council shall have the following responsibilities:

- (a) to act as an advisory, reviewing, and coordinating body to harmonize, improve and assist in implementing planning activities at all levels of government;
- (b) to insure that the current planning programs are consistent with the comprehensive development plan and the Comprehensive Program and Financial Plan as referenced in the Executive Budget Act and the policies enumerated in this Chapter;
- (c) to adopt any rules or regulations in accordance with the Administrative Act and exercise all other powers necessary and proper for the discharge of its responsibilities;
- (d) to encourage the establishment of advisory committees from the village commissioners, legislative staff officers and the collective civic organizations, which Advisory committees will organize at their own discretion and meet on their own initiative or at the request of the Council;
- (e) to review all comprehensive development plan elements, as referenced in § 60020 with the assistance of advisory committees, and the Bureau of Planning, and make detailed written recommendations to the Governor, including minority dissenting opinions, for approval, disapproval, revision, amendment or referral to specific agencies or groups for further study and review; and
- (f) to report on the first Monday of December to the Governor or Governor-elect in an election year, a summary of the planning program and progress.

§ 62014. Coordination of functional responsibilities. All

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and to this end the provisions of this Chapter are severable. (§§ 62010-62021 added as a new Chapter I of Title LXVI by P.L. 12-200, effective January 10, 1975.) [EDITOR'S NOTE: Title LXVI, Chapter I, §§ 62010-62021, added by P.L. 12-200, effective January 10, 1975, provided with new title and chapter numbers by Editor to retain numerical sequence.]

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§ 62020. Plan content. The Plan shall consist of such maps, graphic materials, text and statements of findings, policies, and objectives as necessary. The plan shall contain at least the following specific elements:

- (a) a land use element which designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, conservation, and other categories of public and private uses of land, which include islands, reef and lagoon areas and the sea within the territorial waters and also includes a statement of the standards of population density and building intensity for the various districts and other areas covered by the plan, and regulatory devices governing the use, development and subdivision of land;
- (b) a community design element consisting of standards and principles governing the subdivision and development of land and showing recommended designs for community and neighborhood development and redevelopment, including sites for schools, parks, playgrounds and other uses;
- (c) a transportation element showing a comprehensive transportation and circulation system consisting of existing and proposed major routes, thoroughfares, highways and collector streets, locations of right-of-ways, terminals, viaducts, and grade separation, port, harbor, aviation and mass transit lines and related facilities, all of which are correlated with the land use element of the plan;
- (d) a regulatory element concerning parking facilities and building setback lines and the delineations of such systems on the land, a system of street naming, housing and building numbering, and such other matters as may be related to the improvement of circulation and traffic;
- (e) a public services and facilities element showing general plans for sewerage, refuse disposal, drainage, and local utilities, and right-of-ways, easements, and facilities for them;
- (f) a public building element showing locations and arrangements of civic and community centers, public schools, libraries, police and fire stations, and other public buildings, including their architecture and the landscape treatment of their grounds;
- (g) a housing element consisting of standards and plans for elimination of sub-standard dwelling conditions, the improvement of housing and for provision of adequate sites for housing;
- (h) a redevelopment element for the elimination of slums and blighted areas and for community redevelopment including housing sites, business and industrial sites, public building sites, and for other purposes authorized by law;
- (i) a conservation element for the conservation, development, and utilization of natural resources including forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources, which may also cover the following:
 - (1) Reclamation of land and water;
 - (2) Flood control;
 - (3) Prevention and control of pollution of streams of other waters;

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- (4) Regulations of the use of land in stream channels and conservation plan;
 - (5) Prevention, control, and correction of the erosion of soils, beaches, and shores; and
 - (6) Protection of watersheds.
- (j) a recreation element showing a comprehensive system of areas and public sites for recreation, including the following and, when practicable, their locations and proposed development:
- (1) Natural reservations.
 - (2) Parks.
 - (3) Parkways.
 - (4) Beaches.
 - (5) Reef and lagoons.
 - (6) Playgrounds.
 - (7) Historic and Archeologic sites, and
 - (8) other recreation areas.

(k) a safety element for the protection of the community from fires and geologic hazards, including features necessary for such protection as evacuation routes, peak load water supply requirements, minimum road widths, clearances around structures, geologic hazard mapping in areas of known geologic hazards;

(l) such additional elements dealing with other subjects which in the judgment of the Council relate to the physical development of the territory;

(m) a five-year socio-economic plan to include policy, opportunities, and programs to attack problems concerning health services, manpower planning, employment opportunity, education, elimination of poverty, law enforcement, welfare, substandard housing, consumer protection, public revenue and expenditures, cultural heritage preservation, and the like to include population characteristics and economic analysis with projections for each region and sub-region of the island;

(n) a five-year schedule of proposed capital improvements to be completed from schedules of proposed capital improvements, and submitted to the Council by each department, agency, division, board, commission, branch and instrumentality of the government of Guam, which schedule shall include a policy for the balanced development of port, highway, and public transportation facilities including, but not limited to, the University of Guam, health and welfare facilities, correctional institutions, elementary and secondary schools, electric power, water, telephone, sewer, and other utility facilities; and

(o) a statement of specific policies for at least each of the following general areas: social and human resource development, natural resource development, and utilization of environment protection and quality, historical and cultural heritage preservation.

§ 62021. Severability. If any provision of this Chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provisions or application.

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Public Law 13-89
Thirteenth Guam Legislature
(Bill 499)

AN ACT

An Act to amend Section 62012 A to increase the membership of the Central Planning Council, to repeal and reenact Section 62015, to add Sections 62015.1 and 62015.2, to amend Sections 62016, 62017, and 62019 and to repeal Sections 13205, 13206, 13207, 13208, and 13250 of the Government Code of Guam relative to withdrawing from the Territorial Planning Commission its functions concerning the development of a Comprehensive Plan for Guam and to requiring Legislative consent to the Director of the Bureau of Planning, and for other purposes.

Be it enacted by the People of the Territory of Guam:

Section 1. Section 62012 A of the Government Code of Guam is hereby amended to read as follows:

"A. Central Planning Council. Creation and membership. There is created in the Government Code of Guam a Central Planning Council (hereinafter referred to as 'Council'), consisting of eleven (11) members consisting of the members of the Territorial Planning Commission, two (2) to be appointed by the Governor from the heads of departments or agencies of the Government of Guam and two (2) to be appointed by the Speaker from among private citizens. The Attorney General or his authorized designee shall act as legal counsel to the Council."

Section 2. Section 62015 of the Government Code of Guam is hereby repealed and reenacted to read as follows:

"Section 62015. Plan review. public hearings. Comprehensive Plan elements, prepared by the various public agencies, shall be submitted to the Council for review. Within forty-five (45) days following receipt of any such element or elements by the Council, the Council shall hold one or more public hearings thereon. Announcements of such hearings shall be placed in a newspaper of general circulation on Guam ten (10) days and one (1) day prior thereto. Summaries of the element or elements to be heard shall be prepared by the BP and submitted to appropriate news or other media."

Section 3. A new Section 62015.1 is hereby added to the Government Code of Guam to read as follows:

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"Section 62015.1. Plan submission. Within fifteen (15) days after the hearing of a plan element or elements, the Council shall submit to the Governor its recommendation thereon including a summary of testimony at the hearing."

Section 4. A new Section 62015.2 is hereby added to the Government Code of Guam to read as follows:

"Section 62015.2. Cooperation of other departments. Every department and agency of the Government of Guam is hereby directed to render such assistance to the Council as the Council may require."

Section 5. Section 62016 of the Government Code of Guam is hereby amended to read as follows:

"Section 62016. Plan adoption. Comprehensive Plan elements received by the Governor from the Council may be approved, disapproved or referred to the Council for further recommendation prior to approval. Following approval by the Governor, Plan elements shall be submitted to the Guam Legislature for adoption by resolution."

Section 6. Section 62017 of the Government Code of Guam is hereby amended to read as follows:

"Section 62017. Bureau of Planning. There is created within the Office of the Governor, the Bureau of Planning, (hereinafter referred to as 'BP') to serve as staff for the Council and to administer central planning functions. The director BP will carry the Title 'Director of Planning' and shall be appointed by the Governor with the consent of the Legislature. He shall be a person who as a result of his training, experience, and attainments is exceptionally well qualified to analyze and interpret development trends and information of all kinds, to appraise and coordinate planning programs and supervise the execution of the responsibilities of the Council in accordance with the policies set forth in this Chapter. The Director's salary shall be as provided by Section 4106 of the Government Code of Guam. He shall be responsible for the administration of this Chapter and shall supervise the BP staff which, in addition to its regular duties, shall serve the Council."

Section 7. Subsection F of Section 62019 of the Government Code of Guam is hereby amended to read as follows:

"F. to submit the plan to the Council for public hearings as provided in this Chapter,"

Section 8. Section 13205, 13206, 13207, 13208, and 13250 of the Government Code of Guam are hereby repealed in their entireties.

Section 9. Section 4106 of the Government Code of Guam is hereby amended by adding the following:

"Director of Planning 1 \$26,000"

Section 10. Section 9 of this Act shall become effective only upon the implementation of Section 1 of Public Law 12-197.

November 5, 1975.

Bill No. 377

Introduced by Committee on Rules
At the Request of the
GovernorAN ACT TO REPEAL AND REENACT SUB-
PARAGRAPH (a) OF SECTION 62012 OF
THE GOVERNMENT CODE RELATIVE TO THE
MEMBERSHIP OF THE CENTRAL PLANNING
COUNCIL.

WHEREAS, the Central Planning Council membership as en-
visioned in Public Law 13-39 consists of eleven (11) members
comprising the seven (7) members of the Territorial Planning
Commission, two (2) gubernatorial appointees from heads of
departments or agencies of the Government of Guam and two (2)
appointees by the Speaker from among private citizens; and

WHEREAS, the Organic Act of Guam limits the authority of
the Speaker to make such appointments; and

WHEREAS, citizen representation on the Council as en-
visioned in Public Law 13-69 is currently unattainable due
to practical limitations of the Territorial Planning Commis-
sion membership; and

WHEREAS, it is desirable to retain a balance of member-
ship on the Council between representatives from Government
of Guam agencies and the general public.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Subparagraph (a) of Section 62012 of the
Government Code is repealed and reenacted to read:

"(a) Central Planning Council. Creation and Mem-
bership. There is created in the Government Code of
Guam a Central Planning Council (hereinafter referred to
as 'Council'), composed of nine (9) members consisting
of the Director of Planning, the Director of Public Works,
the Administrator of the Guam Environmental Protection
Agency, the Director of the Guam Housing and Urban Re-
newal Authority, the Director of the Bureau of Budget
and Management Research, the Director of the Department
of Land Management and three (3) citizens appointed by
the Governor with the advice and consent of the Legis-

lature. The citizen appointees shall serve terms of
three (3) years provided, however, that of the initial
three (3) citizen appointees one (1) appointee shall
serve for a term of one (1) year and one (1) appointee
shall serve for a term of two (2) years. In appointing
the initial three (3) citizen members, the Governor shall
designate which appointees shall serve the one (1) and
two (2) year terms. The Attorney General or his autho-
rized designee shall act as legal counsel to the Council.

Bill No. 233
as substituted

Introduced by _____
at the request of the Governor

AN ACT TO ADD A NEW TITLE
LXVIII TO THE GOVERNMENT CODE
RELATIVE TO ESTABLISHMENT OF LAND USE DISTRICTS

WHEREAS, Public Law 12-200 calls for the establishment of generalized areas of use within an urban, rural, agriculture, conservation, and resort context; and

WHEREAS, Public Law 12-200 recommends the drafting of creative legislation regulating our use of land for the protection of future generations; and

WHEREAS, it is imperative that those territorial plans and policies relative to land use be implemented and enforced in an effective manner in order to protect our natural resources and provide for desirable development; and

WHEREAS, the Territorial Planning Commission and the Central Planning Council have been established to respectively regulate and develop policies relative to land use; NOW, THEREFORE,

BE IT ENACTED BY THE PEOPLE OF THE
TERRITORY OF GUAM:

Section 1. A new Title LXVIII is hereby added to the Government Code of Guam to read as follows:

TITLE LXVIII
LAND USE DISTRICTS

Section 68000. Findings and declaration of purpose.

There is a widespread awareness of the need to promote a rational pattern of growth and to manage all environmental resources as wisely as possible. The powers of the territory must be expanded and broadened if it is to cope effectively with emerging problems of growth. To accomplish that objective, the development of a land use districting system for the territory which is consistent with the maintenance of a desirable lifestyle and the maintenance of an environment as free as possible from the damaging effects of ill-planned development is hereby authorized. A procedure is needed which will allow the territory to adopt and enforce more effective controls, as the territorial interest in the use and development of lands and environmental resources may not always be adequately recognized. The

need for the territory to assume a more comprehensive role in guiding the use and development of land and environmental resources has become so critical that federal legislation has been adopted and additional federal legislation may be enacted which requires the territory to assume a heightened responsibility in this area of public concern.

An effort to regulate the use and development of lands and environmental resources in the territory's best interest may result in certain social and economic effects impacting more heavily on some of its people than others.

The value of these already scarce land and environmental resources has increased to the point where many of the people of Guam are no longer able to afford decent housing. Any successful land and water resource management system must assure that desirable and necessary social and economic objectives are achieved.

It is therefore intended that the territory's control over the use and development of lands and environmental resources be exercised in a way that adequately recognizes the needs of its people for suitable and adequate housing accommodation within their financial means.

Section 68001. Definitions.

- (a) 'Building Code' means the Uniform Building Code as defined in Title XXXII of the Government Code of Guam.
- (b) 'Building Official' means the officer charged with the administration and enforcement of the Building Law, Title XXXII of the Government Code of Guam, or his regular authorized deputy.
- (c) 'Bureau' means the Bureau of Planning as established under Title LXV, Chapter II of the Government Code of Guam.
- (d) 'Commission' means the Land Use Commission as established under Title XIV, Chapter III of the Government Code of Guam.
- (e) 'Council' means the Central Planning Council as established under Title LXV, Chapter II of the Government Code of Guam.
- (f) 'Development' means on land, in or under water, the placement or erection of any solid material or structure; discharge of disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of land use of land, including, but not limited to, subdivision of land and any other division of land including lot splits; change in the intensity of use of water, ecology related thereto, or of access thereto; construction

- 1 or reconstruction, demolition, or alteration of the size of any
2 structure, including any facility of any private, public, or municipal
3 utility, and the removal of major vegetation.
- 4 (g) 'Development Standard' or 'standard' means any performance standard,
5 rule, regulation, requirement, or other condition for the regulation
6 of development.
- 7 (h) 'Persons' means any individual, organization, partnership or corporation,
8 including any utility or agency of federal, territorial, or local
9 government.
- 10 (i) 'Seashore Reserve' means that area of land and water is defined under
11 Title XLV, Chapter V-A of the Government Code of Guam.

12 Section 68002. Land Use Guidance Policy.

13 The Council shall adopt and, as necessary, revise policy guidelines relating
14 to the use and development of the land and natural, environmental, recreational,
15 scenic, historic, and other resources within Guam. These guidelines shall
16 guide the Council in establishing and amending land use district boundaries
17 and areas of particular concern.

18 In preparing these guidelines, the Council shall conduct such studies as
19 necessary relating to the expected economic and physical growth of Guam, and
20 the impact of such growth on economic and social conditions, on natural,
21 environmental, recreational, scenic, historic and other resources, and on
22 the provision of public capital facilities and social services.

23 Section 68003. Land Use Districts.

24 There shall be four major land use districts into which all lands in the
25 Territory shall be placed: urban, rural, agricultural, and conservation.
26 The Council shall suitably group contiguous land areas for inclusion in one
27 of these four major districts:

- 28 (a) Urban districts shall include those areas characterized by and designated
29 for higher concentrations of people, structures and streets, proximity
30 to basic services such as sewers, water, sanitation, police and fire
31 protection and areas of high intensity use.
- 32 (b) Rural districts shall include those areas composed of small farms mixed
33 with low density residential lots where urban-like concentrations of
34 people, structures, streets and levels of services are absent. Rural
35 districts may include those areas found by the Council to be capable
36 of adequately supporting services and population densities characteristic

- 1 of urban districts in the future but which are currently rural in
2 character.
- 3 (c) Agricultural districts shall include those areas characterized by
4 the cultivation of crops, orchards, forage and forestry; farming
5 activities or uses related to animal husbandry; controlled game and
6 fish propagation or husbandry; services and uses clearly accessory to
7 the above activities including but not limited to living quarters
8 or dwellings, storage facilities, processing facilities and roadside
9 stands for the sale of products grown on the premises; and open recrea-
10 tional facilities.
- 11 (d) Conservation districts shall include those areas necessary for protection
12 of watersheds and water sources, prevention of floods and soil erosion
13 and preservation of archaeological, historic, scenic, and other natural
14 and cultural resources; parklands, wetlands, beach and wilderness areas;
15 areas necessary for conservation of endemic plants and animals; open-
16 space areas which, because of their present use, natural condition or
17 openness enhance the present or potential value of abutting or surrounding
18 communities; areas of value for existing or future recreational purposes
19 agricultural preserves as defined under Section 12603 of the Government
20 Code; and other permissible uses and related activities found by the
21 Council not to be detrimental to conservation policies and objectives.
- 22 (e) The Council may include within the four respective land use districts
23 areas of land which, though not characteristic of the district in which
24 they are to be included, are of such a geographic or topographic nature
25 as to be more suitable for inclusion within such district than classified
26 as a separate district.

27 Section 68004. District Boundaries.

28 The Council shall prepare a tentative land use district map designating urban,
29 rural, agriculture and conservation districts, and those lands under federal
30 jurisdiction. Such map shall be presented for review and comment at one or more
31 public hearings notice of which shall be provided in a newspaper of general cir-
32 culation at least fifteen (15) days prior to the hearing date. Such notice shall
33 indicate the time and place at which the tentative map may be inspected prior to
34 the hearing.

35 All comments relative to the tentative map shall be submitted to the Council
36 not later than fifteen (15) days following the final public hearing concerning
such map.

1 Upon review of such comments, the Council shall no earlier than fifteen (15)
2 days, nor later than thirty (30) days, following the date of the final public
3 hearing adopt a final land use district map. Such map shall be transmitted to
4 the Governor for approval or disapproval. Upon approval by the Governor such map
5 shall be transmitted to the Legislature for adoption by resolution. If not acted
6 on by the Legislature within twenty-one (21) session days following the date of
7 transmittal by the Governor, such map shall be deemed officially adopted.

8 Section 68005. Zoning within Districts.

9 (a) No later than ninety (90) days following adoption of the final land use
10 district map as described in Section 68004 of this title, the Land Use
11 Commission shall prepare a tentative revised zoning map designating the
12 boundaries of permitted zones within the respective districts. Only
13 the following zones shall be permitted within each of the respective
14 districts Urban: R1, R2, C, H, M1, M2; Rural: A, R1; Agriculture: A;
15 Conservation: no zoning.

16 (b) No land within a district may be zoned as, or rezoned to, any zone not
17 permitted in that district, as specified in part (a) above.

18 (c) The tentative revised zoning map shall be presented for review and
19 comment at at least one public hearing, notice of which shall be provided
20 in a newspaper of general circulation at least fifteen (15) days prior
21 to the hearing date. Such notice shall indicate the time and place
22 at which the tentative map may be inspected prior to the hearing.
23 All comments relative to the tentative map shall be submitted to the
24 Commission no later than fifteen (15) days following the final public
25 hearing concerning such map.

26 Upon review of such comments, the Commission shall no earlier than
27 fifteen (15) days, nor later than thirty (30) days, following the date
28 of the final public hearing adopt a final revised zoning map. Such
29 map shall be transmitted to the Governor for final approval or dis-
30 approval. Upon final approval by the Governor, such map shall be deemed
31 the official zoning map upon which all future zoning or rezoning shall
32 be recorded.

33 (d) No zones shall be established within conservation districts. Any develop-
34 ment within a conservation district for which a building or grading
35 permit is required shall require approval by the Commission before
36 issuance of such permit. No building or grading permit shall be issued

1 within a conservation district without approval of the Commission.

2 The Commission shall approve only those permits which will result in
3 development not incompatible with, or contrary to, those policies guide-
4 lines or standards for conservation districts as outlined in this title
5 or as adopted by the Council or Commission.

6 (e) All land within Agriculture districts shall be zoned A and all applicable
7 provisions of the Zoning Law, Title XVIII shall be enforced therein.

8 (f) The Zoning Law shall be fully enforced within those permitted zones
9 within Urban and Rural districts.

10 Section 68006. District Boundary Revisions.

11 (a) Any person petitioning the Council for revision of a district boundary
12 shall submit a written statement to the Council identifying the land
13 area involved, the proposed district designation, and any documentation
14 in support of such a revision.

15 No later than thirty (30) days following receipt of such a petition, the
16 Council shall hold a public hearing concerning the proposed revision,
17 notice of which shall be placed in a newspaper of general circulation
18 at least fifteen (15) days prior to the hearing date. Such notice shall
19 indicate the time and place at which maps designating the proposed
20 boundary revision may be inspected. All comments relative to the
21 proposed district revision shall be submitted to the Council no later
22 than fifteen (15) days following such hearing.

23 Upon review of such comments, the Council shall no earlier than fifteen
24 (15) days, nor later than thirty (30) days following the district revision
25 hearing either approve or disapprove the proposed district revision.
26 No district boundary may be revised without the approval of at least
27 six (6) Council members. The Council shall issue a written statement of
28 findings in support of its decision addressing those issues raised by the
29 applicant, Council staff, or resulting from the public hearing.

30 If approved, the proposed district boundary revision shall be transmitted
31 to the Governor for approval or disapproval. If approved by the Governor,
32 such proposed revision shall be transmitted to the Legislature for adoption
33 by resolution. If not acted on by the Legislature within twenty-one (21)
34 session days following the date of transmittal by the Governor, such
35 revision shall be deemed officially adopted.
36

(b) No district boundary revision shall be effective without approval by the Council and the Governor and adoption by the Legislature.

(c) Any district boundary revisions proposed by the Council staff shall be submitted to the Council members by memorandum, the date of which shall constitute the date of receipt for purposes of establishing a public hearing date.

(d) All district boundary revisions shall be consistent with the intent and purposes of this title and any land use plans as adopted by the Council. Such revisions shall be consistent with those policies as outlined in Sections 68007 through 68010 of this title.

(e) The burden of establishing the conformity of the proposed district boundary revision with the intent and purpose of this Title and with such official land use policies shall be on the party proposing such revisions.

(f) Any district boundary revision resulting in 1) expansion of an immediately adjacent urban or rural district, or 2) establishment of a new non-contiguous urban or rural district shall become effective only upon final approval of the zoning designations within such district by the Land Use Commission and the Governor.

(g) The Council may adopt such rules and regulations as necessary to carry out its functions under this Section, including extending time periods allotted for review of or comment upon proposed district boundary revisions.

(h) All officially adopted land use district boundary revisions shall be filed with the Council and recorded on the Council's official land use district boundary map accordingly.

Section 68007. Amendments to Urban Districts.

Land not included in an urban district may, by amendment to a land use district boundary, be classified as urban if the Council finds, after considering the following factors, such amendment to be consistent with the purposes of this title:

(a) The availability and adequacy of transportation systems, infrastructure, and other public facilities and services for the land included in the proposed amendment, and the cost of providing transportation systems or other public facilities or services which are not available or the cost of improving those which are inadequate for such land.

(b) The extent to which development which has been proposed for such land will enhance employment opportunities or access to employment opportunities, or assist in providing a balanced housing supply for all economic and social groups.

(c) The extent to which proposed development for such land can be provided at the same or higher densities at locations within existing urban districts, comparing the cost of providing adequate transportation systems and public facilities and services within existing urban districts with the cost of providing comparable systems, facilities, and services for such land.

(d) The extent to which proposed development of such land would remove land from agricultural production or destroy its agricultural potential, or would utilize land which includes natural, environmental, recreational, scenic, historic, or other resources.

(e) The extent to which social and economic benefits achieved by including the land in an urban district balance potential harm from the loss of land in agricultural production, land which has a potential for agricultural production, or land which includes natural, environmental, recreational, scenic, historic, or other resources.

Section 68008. Amendments to Rural Districts.

Land not included in a rural district may, by amendment to a land use district boundary, be classified as rural if the Council finds that such amendment would serve to further community design and lands use policies and objectives as adopted by the Council, and complies with those rural district guidelines outlined in Section 68003(b) of this Title.

Section 68009. Amendments to Agriculture Districts.

Land not presently included in an agriculture district may, by amendment to a land use district boundary, be classified as agriculture if all or a substantial part of such land is in agricultural production, has a potential for agricultural production, or is being devoted to a use which maintains that potential, and conforms with criteria established for agricultural preserves under Section 12604 and for agricultural districts under 68003(c) of this Code.

Section 68010. Amendments to Conservation Districts.

Land not included in a conservation district may, by amendment to a land use district boundary, be classified as conservation if the Council finds that (1) all or a substantial part of the land includes natural, recreational, scenic, historic, archaeological or other significant resources which should be conserved; (2) it is necessary that the land be classified as conservation so as to minimize the

1 impact of development on land which includes such resources; or (3) such land
2 conforms to those conservation district guidelines outlined in Section 68003(d) of
3 this Title.

4 Section 68011. Development Standards.

5 (a) No later than ninety (90) days following adoption of the final land use
6 district map as described in Section 68004 of this title, the Council
7 shall prepare such tentative standards and guidelines as determined
8 necessary to evaluate, promote, and assure desirable development practices
9 within the districts according to those land use policies adopted by the
10 Council. Such standards may include descriptions of unacceptable uses
11 or practices within respective districts and, for conservation districts
12 shall sufficiently delineate those types of uses and practices accepta-
13 ble or unacceptable and areas in which they may or shall not occur.

14 (b) The tentative development standards and guidelines shall be presented
15 for review and comment at one or more public hearings, notice of which
16 shall be provided in a newspaper or general circulation at least fifteen
17 (15) days prior to the hearing date. Such notice shall indicate the
18 time and place at which the tentative standards and guidelines may be
19 reviewed prior to the hearing.

20 All comments relative to the tentative standards and guidelines shall
21 be submitted to the Council no later than fifteen (15) days following
22 the final public hearing concerning such items.

23 Upon review of such comments, the Council shall no earlier than
24 fifteen (15) days, nor later than thirty (30) days following the date
25 of the final public hearing adopt final district development standards
26 and guidelines. Such standards and guidelines shall be transmitted
27 to the Governor for final approval.

28 (c) Revisions or additions to such standards or guidelines may be adopted by
29 the Council as it determines necessary. Public hearing and approval pro-
30 cedures for adoption of such revisions or additions shall be outlined in
31 part (b) of this Section for adoption of tentative district development
32 standards and guidelines.

33 (d) (1) Any development as provided in Section 68005(d) of this Act
34 within Conservation Districts;
35

1 (2) Any permissible or conditional uses, variances, or other uses
2 within Agriculture Districts; and
3 (3) Any zone changes, permissible or conditional uses, variances,
4 or other uses within Urban and Rural Districts subject to
5 review by the Land Use Commission shall be approved by the
6 Commission only if such uses are found not to violate or
7 found not to be incompatible with such district development
8 standards and guidelines, land use policies or other applicable
9 standards as adopted by the Council or Commission.

10 (e) If a proposed development, because of its location, falls within the
11 jurisdiction of more than one set of applicable standards or guidelines,
12 the development shall be subject to the standards established for the
13 area according to the following priority: (1) Area of Particular
14 Concern, (2) Seashore Reserve, (3) District Development Standards or
15 Guidelines. Where a conflict in standards cannot be resolved by the
16 Commission through application of the above priorities, the Commission
17 shall, by rule, determine the appropriate applicable standards.

18 Section 68012. Areas of Particular Concern (APC)

19 (a) In order to encourage development consistent with the capability or
20 suitability of certain geographic areas to support such development,
21 the Council may designate areas of particular concern within any land
22 use district. Areas of particular concern may be designated according
23 to one or more of the following characteristics:

- 24 (1) Areas of significant topographic or geologic resources
25 for agricultural, commercial, or industrial development.
26 (2) Areas of significant hazard if developed.
27 (3) Areas that protect, maintain, or replenish Guam's land, water or
28 other natural resources.
29 (4) Areas where developments and facilities are dependent upon access
30 to coastal waters or areas of urban concentration where shoreline
31 utilization or water use is highly competitive.
32 (5) Areas proposed for development on a scale likely to have an economic,
33 social, environmental, or other impact or islandwide significance.
34 (6) Areas of high natural productivity or unique fragil or natural
35 habitats.
36

(7) Areas of substantial cultural or recreational activity and/or opportunity.

(b) An area of particular concern may include any contiguous area significantly affected by, or having a significant effect upon an area of particular concern.

Section 68013. Designation of Areas of Particular Concern.

The Council shall prepare proposals for tentative areas of particular concern with sufficient maps identifying such areas. Such proposals and accompanying maps shall be presented for review and comment at public hearings, notices of which shall be provided in a newspaper of general circulation at least fifteen (15) days prior to the hearing dates. Such notices shall indicate the time and place at which the tentative proposals and maps may be inspected prior to the hearings.

All comments relative to the tentative proposals and maps shall be submitted to the Council no later than fifteen (15) days following the final public hearings concerning such items.

Upon review of such comments, the Council shall no earlier than fifteen (15) days, nor later than thirty (30) days, following the date of a final public hearing concerning one or more such proposals, adopt a final designation of such areas of particular concern with accompanying maps. Such designations and accompanying maps shall be transmitted to the Governor for final approval or disapproval. Upon final approval by the Governor, such areas of particular concern shall be recorded on official maps of a scale no less detailed than 1:25,000.

Section 68014. Addition and Revision of Areas of Particular Concern.

The Council may adopt additional areas of particular concern or revise those previously adopted through public hearing and approval procedures outlined in Section 68013 of this title for designation of such areas.

Section 68015. Development Standards for Areas of Particular Concern.

(a) No later than ninety (90) days following final approval and recordation of an area of particular concern as described in Section 68013 of this title, the Council shall prepare such tentative standards and guidelines as determined necessary to evaluate, promote, and assure desirable development practices within that area of particular concern designated by the Council. Such standards may include descriptions of unacceptable uses or practices within the respective areas.

(b) Public hearing and approval procedures for adoption of such tentative standards and guidelines shall be as outlined for approval of tentative district development standards in Section 68011(b) of this title.

(c) Revisions or additions to such standards or guidelines may be adopted by the Council as it determines necessary. Public hearing and approval procedures for adoption of such revisions or additions shall be as outlined in Section 68011(b) and (c) of this title for adoption of revisions to district development standards.

(d) Any development within an area of particular concern for which a building or grading permit is required shall require approval by the Land Use Commission before issuance of such permit. No building or grading permit shall be issued within an area of particular concern without approval of the Commission. The Commission shall approve only those permits which will result in development not incompatible with or contrary to those policies, standards or guidelines for the respective areas of particular concern as outlined in this title or as adopted by the Council.

(e) The Commission may require submission and approval of final site plans for any development requiring issuance of a building or grading permit within an area of particular concern in order to assure its compliance with applicable development standards or guidelines.

Section 68016. Property Tax Assessments.

(a) The Council shall forward a finally approved map of the land use district classifications to the Department of Revenue and Taxation and, as adopted, all boundary amendments which are made to such land use districts. The Council shall also forward to the Department of Revenue and Taxation an official copy of:

- (1) All permits issued in agricultural preserves; and
- (2) All designations of areas of particular concern as well as any action taken with respect to any land within such areas.

(b) The Department of Revenue and Taxation, when making assessments of land located within an area of particular concern, shall give consideration to any action taken by the Council with respect to such land.

1 (c) Within agricultural preserves, the Department of Revenue and Taxation:

2 (1) Shall assess at its value for agricultural production all land
3 which is in agricultural production or which has a potential for
4 such production; and

5 (2) Shall not consider sales data when making assessments of land
6 which qualifies under the preceding paragraph.

7 (d) Whenever any land which has been assessed under the provisions of Sub-
8 section (c) is classified by amendment to a land use district boundary
9 as an urban district, and has not continuously been in intensive
10 agricultural production for the five (5) years immediately preceding
11 such classification, the owner of such land at the time of the amendment
12 shall pay to the Department of Revenue and Taxation an amount equal to
13 the difference between (1) the amount of property tax which would have
14 been payable for the ten (10) years immediately preceding the tax year
15 of such amendment had such property been taxed at its highest and best
16 use, and (2) the amount of property tax which was actually paid during
17 those ten (10) years.

18 Section 68017. Private Property Rights.

19 The Legislature hereby finds and declares that this title is not intended,
20 and shall not be construed as authorizing the Council or the Commission to
21 exercise their power or grant or deny a permit in a manner which will take or
22 damage private property for public use, without the payment of just compensation
23 therefore. This title is not intended to increase or decrease the rights of
24 any owner of property under the Constitution of the Territory of Guam or the
25 United States.

26 Section 68018. Judicial Review.

27 (a) Any person may maintain an action for declaratory and equitable relief
28 to restrain any violation of this title. On a prima facie showing of a
29 violation of this title, preliminary equitable relief shall be issued
30 to restrain any further violation of this title.

31 (b) Any person may maintain an action to enforce the duties specifically
32 imposed upon the Commission or Council.

33 (c) Any person may maintain an action for the recovery of civil penalties
34 provided for in Section 68019.

1 (d) Any party aggrieved by any decision or action of the Commission or Council
2 pursuant to this title shall be entitled to judicial review thereof by
3 application to the Superior Court of Guam with fifteen (15) days after
4 the date of such action or decision.

5 Section 68019. Penalties.

6 (a) Any person who violates any provision of this title shall be subject to
7 a civil fine of not to exceed ten thousand dollars (\$10,000).

8 (b) In addition to any other penalties, any person who intentionally and
9 knowingly performs any development in violation of this title, shall be
10 subject to a civil fine of not less than fifty dollars (\$50) nor more
11 than five thousand dollars (\$5,000) per day for each day in which such
12 violation occurs.

13 (c) Where a person has intentionally and knowingly violated any provisions
14 of this title, the Commission or Council may maintain an action, in
15 addition to Section 68018(d), for exemplary damages and may recover an
16 award, the size of which is left to the discretion of the court. In
17 exercising its discretion, the court shall consider the amount of
18 liability necessary to deter further violations.

19 (d) Any funds derived by the Commission of Council under this section shall
20 be expended for carrying out the provisions of this title, when appro-
21 priated by the Legislature.

22 Section 68020. Severability.

23 If any provision of this title or the application thereof to any person or
24 circumstances is held invalid, such invalidity shall not affect the other
25 provisions or applications of the title which can be given effect without
26 the invalid provision or application, and to this end the provisions of this
27 title are severable.

28 Section 68021. Effective Date.

29 This act shall take effect upon enactment.

30 Section 2. The Territorial Planning Commission, as defined in Section 13200
31 of the Government Code of Guam, is hereby renamed the Land Use Commission and
32 all references to the Commission in such Code shall be revised accordingly.

GOVERNMENT CODE

TITLE XVIII

Zoning Law

- Chapter I. General Provisions.
- II. Establishment of Zones and Boundries.
 - III. Use Regulations.
 - IV. Height Regulations.
 - V. Yard and Area Regulations.
 - VI. Accessory Buildings.
 - VII. Nonconforming Buildings and Uses.
 - VIII. Automobile Parking and Loading Space Regulations
 - IX. Sign Regulations.
 - X. Junk Yards.
 - XI. Administration and Enforcement.
 - XII. Appeals and Reviews.
 - XIII. Changes of Zones.
 - XIV. Recording: Submission to the Legislature.
 - XV. Fees.
 - XVI. Penalty for Violation.

CHAPTER I

General Provisions

- § 17000. Title.
- § 17001. Purpose.
- § 17002. Definitions.
- § 17003. Interpretation.

§ 17000. Title. This Title shall be known as "The Zoning Law of the Territory of Guam." [Included in Original Government Code of Guam enacted P.L. 1-88, 1952.]

§ 17001. Purpose. The purpose of this Title is to establish certain minimum regulations for the protection and promotion of the public health, safety and general welfare of the people of the Territory of Guam, which regulations are deemed necessary in order to encourage the most appropriate use of land, to provide adequate open spaces about buildings for light and air, to prevent undue concentration of population, and to assure adequate provisions for community utilities and facilities such as water, schools, parks and other public requirements. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17002. Definitions. For the purpose of this Title, certain terms are defined as follows:

"Accessory Building." A detached subordinate building located on the same lot with a main building, the use of which is customarily secondary to that of the main building or to the use of the land.

"Apartment House." Same as "dwelling, multiple."

"Automobile Parking Area, Private." An open area, located on the same lot with a dwelling or hotel, for parking automobiles of the occupants of such buildings.

"Automobile Parking Area, Public." An open area, other than a street

or private automobile parking area, designed to be used for the parking of two or more automobiles.

"Building." Any structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind.

"Building Height." The vertical distance measured from the average level of the highest and lowest point of that portion of the lot covered by the building to a point midway between the highest and lowest point of the roof.

"Cluster Development." Placement of residential units in close association to each other in order to consolidate required lot area into usable open space for the benefit of those living in such residential units. [Amended by P.L. 10-5, effective February 3, 1969.]

"Commission." Shall mean the "Territorial Planning Commission of Guam."

"Dwelling." A building or portion thereof designed exclusively for residential occupancy, including one-family, two-family and multiple dwellings, but not including hotels.

"Dwelling Unit." One or more rooms and a single kitchen in a dwelling, designed as a unit for occupancy by one family for living and sleeping purposes.

"Dwelling, One-Family." A detached building containing only one dwelling unit.

"Dwelling, Two-Family." A detached building containing two dwelling units.

"Dwelling, Multiple." A building containing three or more dwelling units.

"Family." An individual, or two or more persons related by blood or marriage, or a group of not more than five persons who need not be related by blood or marriage living together as a single housekeeping unit.

"Home Occupation." An occupation, carried on by occupants of a dwelling as a secondary use of such dwelling, in connection with which there is no display, no stock in trade nor commodity sold on the premises, and no other person employed.

"Hotel." A building containing six or more rooms intended or designed to be used, or which are used, rented, or hired out to be occupied, or which are occupied for sleeping purposes.

"Junk Yard." An open area where waste, scrap metal, paper, rags, or similar materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including the dismantling or storing of wrecked automobiles or other vehicles, and buildings. The terms "dismantling" or "storing" do not include the action of a licensed automobile repairer or garage owner in stripping an automobile or other vehicle of its usable parts as long as such action is accomplished within ten (10) days of the arrival of the motor vehicle being stripped on the premises of the garage or automobile repair business. [Added by P.L. 9-126, effective January 29, 1968.]

"Lot." A parcel of land occupied or to be occupied by a use or building, and accessory buildings and uses, together with such yards, open spaces and lot area as are required by this Title, and having frontage on a street.

"Lot Line, front." The line separating the lot from the street. For the purposes of yard requirements, a corner lot has two front yards and no rear yard. Within a panhandle lot, the front lot line begins at the interior end of the panhandle. [Amended by P.L. 9-252, effective August 29, 1968.]

"Lot Line, rear." The lot line which is opposite and most distant from the front lot line.

"Lot Line, side." Any lot line not a front lot line or a rear lot line.

"Lot Depth." The horizontal distance between the front and rear lot lines, measured in the mean direction of the side lot lines.

"Lot Width." The horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

"Lot Area." The total horizontal area within the lot lines of a lot.

"Nonconforming Building." A building or structure which does not conform to the regulations of this Title and which lawfully existed at the time the regulations, with which it does not conform, became effective.

"Nonconforming Use." A use of a building or land which does not conform to the regulations of this Title and which lawfully existed at the time the regulations, with which it does not conform, became effective.

"Planned unit development district." A substantial area in which development follows an approved plan integrating a combination of uses in an appropriate and unified manner. [Added by P.L. 9-232, effective August 10, 1968.]

"Story." That portion of a building between the surface of any floor and the surface of the floor or ceiling next above it.

"Structure." Anything constructed or erected which requires location on the ground or attached to something having a location on the ground.

"Use." The purpose of which land or a building is arranged, designed or intended or for which either land or a building is or may be occupied or maintained.

"Yard." An open space on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Title.

"Yard, front." A yard adjoining the front lot line and extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

"Yard, rear." A yard extending across the full width of the lot between the most rear main building and the rear lot line. The depth of the required rear yard shall be measured horizontally from the nearest part of a main building toward the nearest point of the rear lot line.

"Yard, side." A yard between a main building and the side lot line, extending from the front yard or front lot line where no front yard is required to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the main building. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952; amended where indicated herein.]

§ 17003. Interpretation. In interpreting and applying the provisions of this Title, they shall be held to be the minimum requirements for the protection and promotion of the public health, safety and general welfare, and shall be liberally construed in furtherance of these objectives. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

CHAPTER II

Establishment of Zones and Boundries

- § 17050. Zone.
- § 17050.1 Zoning map: Agana: adopted.
- § 17051. Zone boundries.

§ 17050. Zones. In order to carry out the purposes and provisions of this Title, areas within the Territory of Guam are hereby divided in-

to eight zones, known as:

- "A" Agricultural Zone
- "R1" One-Family Dwelling Zone
- "R2" Multiple Dwelling Zone
- "P" Automobile Parking Zone
- "C" Commercial Zone
- "ML" Limited Industrial Zone
- "M2" Industrial Zone
- "LC" Limited Commercial Zone

The aforesaid zone symbols and the boundries of such zones shall be shown upon a map or maps which shall be designated as the "Zoning Map."

The "Zoning Map" shall be adopted by the Commission and shall be effective upon its approval by the Committee on Rules of the Legislature and by the Governor. The "Zoning Map" shall be submitted to the Committee on Rules prior to its submission to the Governor and such map shall be deemed approved by said Committee, unless within fifteen (15) days of its receipt thereof, said Committee shall adopt a resolution disapproving the same, in which case the map shall be returned to the Commission. No such map shall be adopted by the Commission except after public hearing, ten (10) days notice of time and place of which shall be given in a newspaper of general circulation.

The "Zoning Map" may be divided into separate parts and separately adopted and approved as the necessary planning and study therefor is completed. [Enacted 1952; repealed and added by P.L. 6-136, effective December 18, 1962.]

§ 17050.1. Zoning map of Agana. The zoning map of Agana, identified as Drawing No. GI-54517 and heretofore adopted as part of the 'zoning map', is hereby amended by extending the commercial zones appearing on said map, north of Route 8 and south of the Mongmong-Maite road, two hundred (200) feet in depth on each such area. Notwithstanding any other provision of law, these two commercial zones may not hereafter be altered or changed except by statute. The zoning map of Agana is further amended by extending the commercial zones north and south of Route Four, from Marine Drive to Lot 83 Sinajana on the north side and to Lot 3202 Sinajana on the south side, to a depth of two hundred (200) feet where the zones are not already of that depth and, by further extending the commercial zone on said map to include the entire area bordered by Route Four, 3rd Street South, First Street East and Cliff Drive Extension. [Repealed and added by P.L. 10-5, effective February 3, 1969; Amended by P.L. 12-160, effective August 26, 1974.]

§ 17051. Zone boundries. Where the zone boundries indicated on the "Zoning Map," said map, and all notations, references and their extensions; such lines shall be construed to be the zone boundries.

Where the zone boundries indicated on said map are not street, alley or lot lines, or extensions thereof, the zone boundries shall be determined by the use of the scale appearing on the "Zoning Map," unless otherwise specifically shown by dimension.

In any case where there is uncertainty as to the intended location of a zone boundary, the Commission shall have the power and duty to determine its intended location. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17052. Church Zone in Dededo. As an amendment to the Dededo Zoning Map (Land Management Drawing No. E3-67339), adopted by the Committee on Rules of the Guam Legislature pursuant to the provisions of § 17050 of this Title, the area in the municipality of Dededo, bounded by West Santa Monica Avenue to the north, Dolores Street to the east, and West San Antonio Avenue to the south and west, is hereby declared to be zoned for church and church-related activities. [Added by P.L. 10-106, effective February 6, 1970.]

§ 17053. Basic Lots Nos. 242, 243 and 269 REM, all in Maina in the municipality of Asan, are hereby rezoned to R-2, multiple dwelling. [Added by P.L. 12-111, effective March 15, 1974.]

§ 17053.1. Lots Nos. 235-REM-3-1 and 235-REM-3-2 in Maina in the municipality of Asan are hereby rezoned to C, commercial. [Added by P.L. 12-111, effective March 15, 1974.]

§ 17053.2. Tumon commercial zone. All property lying on either side of Route 1 (Marine Drive) between the two intersections of Tumon Loop with Route 1, to a depth of 200 feet from the edge of the right of way along Route 1, is hereby established as commercial zone property. The Department of Land Management is hereby directed to amend its zoning maps accordingly. [Added by P.L. 12-160, effective August 26, 1974.]

§ 17053.4. Nimitz Hill R-2 zone. All property lying on either side of the road from Top 'O The Mar (Nimitz Hill - Spruance Drive) to the New Piti Elementary School, to a depth of 200 feet from the edge of the right of way along Route 6, is hereby established as R-2 zone property. The Department of Land Management is hereby directed to amend its zoning maps accordingly. [Added by P.L. 12-160, effective August 26, 1974.]

CHAPTER III Use Regulations

- § 17100. Conformance of uses to zone regulations.
- § 17101. Regulations along district boundaries.
- § 17102. Conditional use.
- § 17103. "A" rural zone.
- § 17104. "R1" single family dwelling zone.
- § 17105. "R2" multiple dwelling zone.
- § 17106. "C" commercial zone.
- § 17107. "P" automobile parking zone.
- § 17108. "M1" light industrial zone.
- § 17109. "M2" heavy industrial zone.

§ 17100. Conformance of uses to zone regulations. No building or structure shall be altered, enlarged, moved or maintained, and no building or land shall be used for any purpose, except for a use permitted in the zone in which such building or land is located, as hereafter provided in this article.

§ 17101. Regulations along district boundaries. Where a commercial or industrial use occurs in zones permitting such uses, but in areas which are located adjacent to rural or residential zones, the yard requirement shall be twice that required of such use or twenty (20) feet, whichever is the greater.

§ 17102. Conditional use. In addition to permitted uses in each of the zones, specified uses will be permitted upon approval by the Commission of the site plan, including, but not limited to, disposal of sewage, access, parking, structure location and accompanying covenants that may include performance standards.

§ 17103. "A" rural zone.

(a) Use Permitted

1. One-family dwellings and duplexes.
2. Farming and fisheries, including all types of activities and pursuits customarily carried on in the field of agriculture and fisheries, including the raising of crops and fruits, poultry and livestock, grazing and dairying, tree and other vegetative production, whether for commercial or personal uses.
3. Uses customarily accessory to any of the above uses including home occupations, and private automobile parking areas as well as accessory buildings and structures such as private garages, warehouses, barns, corrals, or other similar structures.

(b) Conditional Use

1. Parks, playgrounds and community centers.
2. Biological gardens.
3. Schools and churches.
4. Hospitals, sanitariums, and institutional uses.
5. Cemeteries.
6. Recreational use including golf courses, cockpits, marinas, beaches, swimming pools, and accessory residential and commercial use.
7. Extractive industry.
8. Utilities and public facilities.
9. Wholesale and retail stores, shops and businesses.
10. Automobile service stations, including service shops.
11. Accessory uses and structures for the above.

§ 17053.3. Yigo commercial zone. All property lying on either side of Route 1 (Marine Drive) between the Old Marbo PX and the Yigo Catholic Church, to a depth of 200 feet from the edge of the right of way along Route 1, is hereby established as commercial zone property. The Department of Land Management is hereby directed to amend its zoning maps accordingly. [Added by P.L. 12-160, effective August 26, 1974.]

§ 17104. "R1" one-family dwelling zone.

(a) Use Permitted

1. One-family dwellings.
2. Gardening and the keeping of pets for noncommercial purposes.
3. Use customarily accessory to any of the above uses including home occupations and private parking areas with accessory buildings and structures.

(b) Conditional Use

1. Duplexes.
2. Schools and churches.
3. Parks, playgrounds and community centers.
4. Health service office, outpatient with laboratory.
5. Utilities and public facilities.

§ 17105. "R2" multiple dwelling zone.

(a) Use Permitted

1. One-family dwellings.
2. Duplexes.
3. Multi-family dwellings.
4. Hotels, private groups and institutions.
5. Accessory uses and structures for the above.

(b) Conditional Uses

1. Any conditional use permitted in the "R1" zone.
2. Health clinics.
3. Utilities and public facilities.
4. Air, bus, taxi, auto, rental terminals.
5. Accessory uses and structures for the above.

§ 17106. "C" commercial zone.

(a) Use Permitted

1. One-family dwellings.
2. Duplexes.
3. Wholesale and retail stores, shops and businesses.
4. Amusement enterprises.
5. Automobile service station, including minor repairs.
6. Bakeries.
7. Mortuaries.
8. Offices, business or professional, and banks.
9. Personal service shops, including barber shops, beauty parlors, laundromats, and the like.
10. Repair shops and service shops, including shoe repair shops, plumbing shops, dressmaking shops, and the like, but not including, automobile repair shops for major work.
11. Restaurants and cafes.
12. Studios.
13. Other uses which in the judgment of the Commission, as evidenced by resolution in writing, are similar to those listed herein.
14. Uses customarily accessory to any of the above listed uses, including only those accessory to manufacturing, storage, compounding, or processing activities which are necessary for the ordinary conduct of said listed uses and which are an integral part thereof.
15. Accessory structures for the above.

(b) Conditional Use

1. Hospital and clinics.
2. Public utility and other public buildings.

3. Shopping center
4. Recreation, including cockpits, marinas, amusement centers, drive-in theatres.
5. Multi-family.
6. Hotels, motels, tourist accommodations.
7. Air, bus, taxi, auto rental terminals.
8. Auto sales and car wash.
9. Parking garages and lots.
10. Service vehicle storage.
11. Laundries and cleaning and dyeing establishments.
12. Schools and churches.
13. Parks, playgrounds, community centers.
14. Utilities and public facilities.
15. Accessory uses and structures for the above.

§ 17107. "P" automobile parking zone.

(a) Use Permitted

1. Public or commercial parking area and garages.
2. Public access to adjoining parking areas.
3. Loading and unloading of automobiles or trucks, but not to use portions of required parking space.
4. Service vehicle storage after commercial hours.
5. Utilities and public facilities.
6. Accessory uses and structures for the above.

§ 17108. "M1" light industrial zone.

(a) Use Permitted

1. Any use permitted with or without condition in the commercial zone.
2. The manufacturing, compounding, processing or treating of such products as drugs, cosmetics, and food products (not including fish and meat products nor the rendering of fats and oils).
3. The manufacturing, compounding, assembling or treating of articles or merchandise from previously prepared materials.
4. Automobile repair shops including painting, body and fender work and rebuilding; truck and tractor repairing; and tire re-treading.
5. Bottling and packaging plants.
6. Ceramic products manufacturing.
7. Laundries and cleaning and dyeing establishments.
8. Machine shops and sheet metal shops.
9. Warehouses and cold storage plants.
10. Lumber yards, building material salesyards, contractor's equipment storage yards, and the like.
11. Other uses which in the judgment of the Commissions, as evidenced by a resolution in writing, are similar to those listed herein.
12. Uses customarily accessory to any of the above listed uses, and accessory buildings.

(b) Conditional Use

1. Other industrial uses not objectionable, obnoxious or offensive by reason of odor, dust, smoke, noise, gas fumes, cinders, vibration, flashing lights, or water-carried waste.
2. Utilities and public facilities.
3. Accessory uses and buildings for the above.

§ 17109. "M2" heavy industrial zone.

(a) Use Permitted

1. Any uses permitted in the "M1" zone, excepting residential use.
2. Junk Yards. Under the special provisions set forth in Chapter X of this Title.
3. Any other uses not specifically prohibited by law, including those which are or may be objectionable, obnoxious, or offensive by reason of odor, dust, smoke, noise, gas fumes, cinders, vibrations, or water-carried waste.
4. Uses customarily accessory to any of the uses herein permitted, and accessory buildings and structures.

(b) Conditional Use

1. All residential uses.
2. Accessory uses and structures for the above.

[Original Chapter III, consisting of §§ 17100-17107, enacted 1952; original § 17108 added by P.L. 5-64, effective February 29, 1960; Chapter III was repealed and a new Chapter III added (§§ 17100-17109) by P.L. 9-252, effective August 29, 1968. Original § 17107 had been amended by P.L. 9-126, effective January 29, 1968.]

IV HEIGHT REGULATIONS

§ 17150. Height limit established.

§ 17151. Buildings and structures permitted above height limit.

§ 17150. Height limit established. In the "A," "R1," "LC," "R2," "C," "M1," and "M2" Zones, no building or structures shall be erected or maintained, nor shall any existing building or structure be altered, enlarged, moved, or maintained, to exceed a height limit of two (2) stories (the two (2) stories shall not exceed a height of thirty (30) feet, except that in the "C" Zone within the "New Agana" lot and block system the building height limit shall be six (6) stories (the six (6) stories shall not exceed a height of seventy-five (75) feet). [Enacted 1952; amended by P.L. 7-19, effective May 9, 1963.]

§ 17151. Buildings and structures permitted above height limit. The following buildings, structures and equipment may be erected and maintained above the permitted height limit:

(a) In the "A" Zone, any building may exceed the height limit of two (2) stories or thirty (30) feet, if such building is located at least a distance equal to two (2) times the height of the building from any lot line;

(b) Shelters accessory to roof gardens or decks, providing such shelters are open on two (2) or more sides, occupy less than half the roof area, do not exceed the height limit by more than ten (10) feet, and are set back at least eight (8) feet from each lot line;

(c) Roof structures for the housing of stairways, tanks, ventilating fans, or similar structures and equipment for the maintenance of the building; and

(d) Aerials, flagpoles, skylights, steeples, towers, fire or parapet walls, or other similar structures.

(e) Hotels, provided, that for every foot in elevation exceeding the standard limitation, two (2) feet shall be added to each of the required yard depths and widths; and provided, further, that the height limit for any such hotel shall be six (6) stories (the six (6) stories shall not exceed a height of seventy-five (75) feet). [Enacted 1952; subsection (c) added by P.L. 9-197, effective July 1, 1968.]

"Section 17110. Notwithstanding any other provision of law, rule or regulation to the contrary, there is hereby created a "H" Resort-Hotel Zone for the purpose of being applied to areas to accommodate the needs and desires of visitors, tourists, and transient guests.

(a) Purpose. It applies to specific areas where public roads and public utilities are available or where suitable alternative private facilities are assured. It may apply to a single isolated hotel or resort with or without a commercial mall or shopping section.

This zone provides for high-intensity development in a compatible arrangement of structures and uses in a unique setting. It shall be designed to promote a superior level of convenience, comfort, and amenity within the zone; to encourage safe and pleasant pedestrian circulation, to preserve existing attractions and to assure beneficial visual relationships from principal viewpoints.

Development shall be designed to establish an open character, with higher portions of buildings well spaced and oriented with respect to principal views from within the zone. Pedestrian circulation systems shall form a convenient and coordinated network through buildings and landscaped open spaces, supplementing sidewalks along streets; and where extensive areas of the shoreline are in such configuration as to allow it conveniently, walkways and/or bikeways shall be provided along the waterfront on both public and private property.

Since hotels complement other activities in this zone without creating excessive automotive traffic, it is intended to permit higher floor-area ratios for hotel uses than for other uses within the zone.

Since the zone is separated from major parking facilities in adjoining areas, it is intended that off-street parking requirements shall apply within its boundaries. It is further intended in view of the unusual visual exposure that adverse visual influences such as excessive signs, inappropriate lighting, and open-storage shall be prohibited.

b) Permitted Uses.

(1) Cultural and recreational facilities, hotels, restaurants, tourism related shops and offices, dwellings, parks, marinas, zoos, amusement activities and supportive services.

(2) Permitted Accessory Uses and Structures. Uses and structures which are customarily accessory and clearly complementary to permitted principal uses and structures shall be permitted. Service stations shall be permitted only within, and as accessory to, parking garages containing 250 or more parking spaces.

"Section 17111. All land excluding Ypao Beach Park and Lot No. 5140-1 Ypao, Tumon and Dededo consisting of 39,136.26 square meters all government recreational and multi-purpose lands in the area known as Tumon Bay from Ypao Beach to San Vitores Beach along the adjoining natural cliffline boundary seaward as designated by the Bureau of Planning on Orthographics Map Numbers 46, 47 and 51, at the effective date of this Act is hereby zoned "H" Resort-Hotel Zone pursuant to the provisions of this Act.

Section 3. Any property owner affected by the rezoning in this Act may, notwithstanding the provisions of this Act, and not more than ninety (90) days after the effective date of this Act, notify the Territorial Planning Commission that he desires that his land remain zoned as it is on the effective date of this Act, and his land shall then remain so zoned.

The Director of the Department of Land Management, as the Executive Secretary of the Territorial Planning Commission, shall, within 48 hours of the effective date of this Act, send each landowner affected herein with a written notice concerning the provisions of this Section of this Act.

CHAPTER V
Yard and Area Regulations

- § 17200. Minimum yards and lot areas established.
- § 17201. General Yard and area requirements.
- § 17202. Exceptions to yard and area regulations.
- § 17203. Statements of purpose: building and building height restrictions in beach areas.

§ 17200. Minimum yards and lot areas established. No building or structure shall be erected or maintained, nor shall any existing building or structure be altered, enlarged, moved or maintained, on any lot, unless a front yard, a rear yard, and two (2) side yards are provided and maintained on such lot. The depth of such front and rear yards and the width of such side yards shall not be less than the depth and width specified in the following "Yards and Lot Area" table. Further, no lot width or lot area, nor any lot area per dwelling shall be less than that specified in said table. A commercial building to occupy the whole width of a lot must be of four-hour fire-resistive construction. If party walls are to be erected, the written consent of the owners of adjacent lots must be obtained as a prerequisite for the issuance of a building permit to start construction. If the building to be erected is not of fireproof construction, side yards of eight (8) feet wide must be provided. In the Rural (A) Zone all structures shall have front and rear yards of twenty-five (25) feet and side yards of fifteen (15) feet; the width of each lot shall be one hundred twenty (120) feet with an area of not less than forty thousand (40,000) square feet. The lot area per dwelling unit in the Rural Zone (A) shall be not less than ten thousand (10,000) square feet.

YARD AND LOT AREA

Use	Front Yard Depth	Rear Yard Depth	Side Yard Depth	Lot width	Lot Area	Lot Area per Dwelling Unit
Single Family	15 ft.	10 ft.	8 ft.	50 ft.	5,000 sq. ft.	5,000 sq. ft.
Multi-Family	15 ft.	10 ft.	8 ft.	50 ft.	5,000 sq. ft.	1,250 sq. ft.
Commercial	. . .	20 ft.	. . .	20 ft.	2,000 sq. ft.	400 sq. ft.
Light Indus.	. . .	20 ft.	8 ft.	50 ft.	5,000 sq. ft.	1,250 sq. ft.
Heavy Indus.	25 ft.	25 ft.	15 ft.	120 ft.	40,000 sq. ft.	

Unless facilities are otherwise provided for loading, the rear yard must be not less than twenty (20) feet in depth. [Enacted 1952; amended by P.L. 9-103, effective August 23, 1967; further amended by P.L. 9-252, effective August 29, 1968.]

§ 17201. General yard and area requirements. (a) No required yard or other open space provided about any building or structure for the purpose of complying with the provisions of this Title, shall be considered as providing a yard or open space for any other building or structure.

(b) No lot or parcel of land under separate ownership at the time this law became effective shall be separated in ownership or reduced in size below the minimum lot width or lot area set forth in the "Yards and Lot Area" table.

(c) Where a lot in the "R1" zone has an area of ten thousand (10,000) square feet or more, a one family dwelling may be erected and maintained on each five thousand (5,000) square feet thereof, if front, side and rear yards of the depth and width specified in the "Yards and Lot Area" table are provided and maintained for each such dwelling.

(d) In the "C" and "M1" zones, every building hereafter erected on a lot which abuts a primary or secondary highway, as shown on a highway plan adopted by the Commission or Legislature, shall provide and maintain a front or side yard having a depth or width, as the case may be, of not less than that required to conform to the line of such highway.

(e) A hotel or motel, while considered a multi-family use, requires a minimum of four hundred (400) square feet of lot area per living unit

in a commercial zone.

(f) A cluster development may have a reduction of yards and lot width upon approval by the Commission. [Amended by P.L. 10-5, effective February 3, 1969.]

§ 17202. Exceptions to yard and area regulations.

(a) No front yard need be provided on a lot in a hillside area where the topography of the lot is such as to make it unreasonable or impractical to locate a building on the lot and provide a front yard.

(b) No side yard need be provided for a dwelling or hotel erected above the ground floor of a building, where the ground floor is designed for commercial or industrial purposes.

(c) Cornices, eaves, belt courses, sills, canopies or other similar architectural features, may project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard and may project into any other required yard space not more than thirty (30) inches.

(d) Open, unenclosed stairways or balconies, not covered by a roof or canopy, may project into a required rear yard not more than four (4) feet, and such balconies may project into a required front yard not more than six (6) feet.

(e) Open, unenclosed porches, platforms, places, not covered by a roof or canopy, or landings, which do not extend above the level of the first floor of the building, may project into any required front, side or rear yard, not more than six (6) feet.

(f) A fence, lattice work screen, wall, or hedge, not more than six (6) feet in height, may be located in any required front, side or rear yard.

(g) In computing the lot area of a lot which abuts upon an alley one-half (1/2) the width of such alley may be assumed to be a portion of the lot.

(h) Accessory buildings or structures may be located and maintained in a rear yard, except in the required ten (10) foot rear yard which is that portion adjoining the rearmost main building on the lot. Such building or structures may also be located and maintained in any side yard, except in the required eight (8) foot side yards adjoining each of the side lot lines. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17203. Statement of purpose: building and building height restrictions in beach areas.

(a) The legislature finds that the indiscriminate building of structures on the beaches of the Territory of Guam creates a menace to the well-

being of the people of the territory by increasing the pollution of tidal waters, that such construction, in addition, deprives the people of Guam of their right to the untrammelled use of beach areas beyond the high water mark, and finally, that such construction destroys the natural beauty of Guam's beaches, one of the territory's greatest natural resources. Accordingly, it is the purpose of the restrictions hereinafter contained to protect the beaches of Guam for future generations, to alleviate the health problems caused by construction near tidal areas, and to make certain that the people of Guam remain free to use the beaches of the territory to the maximum extent not incompatible with private ownership of the lands adjoining said beaches.

§ 17203 (b) Along any beach in the territory of Guam, no building may be constructed within thirty-five feet (35') of the mean high water mark bounding said beach, nor may any building higher than twenty feet (20') be constructed within seventy-five feet (75') of the said mean high watermark. For the purpose of this section, the term, 'beach' does not include those areas where the shoreline is a cliff or bluff higher than twenty-five feet (25'), nor shall it include those areas where the shoreline is bounded by village lots containing no more than a thousand (1000) square meters in those villages wherein residences have been constructed along the shoreline since prior to the Second World War, and the term 'building' included any structure except a retaining wall that cannot be seen. [Added by P.L. 9-163, effective March 7, 1968; amended by P.L. 12-19, effective April 24, 1973.]

CHAPTER VI
Accessory Buildings

§ 17250. Location of accessory buildings.

§ 17250. Location of accessory buildings. In the "A," "R1," and "R2" zones, no accessory building shall be erected or maintained and no existing building shall be enlarged, moved or maintained, unless such accessory building is located on the lot in conformance with following regulations:

(a) Every accessory building shall be located on the rear one-half (1/2) of the lot and shall be not less than eight (8) feet from the side street lot line of a corner lot;

(b) Every accessory building located in a rear yard (between the rear lot line and the rearmost main building on the lot) shall be not less than ten (10) feet from said main building and not less than five (5) feet from any lot line which is not a street line;

(c) Every accessory building located in a side yard (between the side lot line and side of a main building) shall be not less than five (5) feet from such main building and not less than eight (8) feet from the side lot line; and

(d) No accessory building shall be located in a front yard or on the front one-half (1/2) of a lot, except on hillside lots where the topography makes it impractical to conform to the other regulations of this article. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

CHAPTER VII
Nonconforming Buildings and Uses

- § 17300. Nonconforming buildings.
§ 17301. Nonconforming use of buildings.
§ 17302. Nonconforming use of land.
§ 17303. Nonconforming by reclassification or change.

§ 17300. Nonconforming buildings.

(a) A nonconforming building may be maintained and repaired, except as otherwise provided in this section.

(b) A building nonconforming as to use regulations shall not be added to or enlarged in any manner, unless said building, including such additions and enlargements, is made to conform to all the regulations of the zone in which it is located.

§ 17300(c) A building nonconforming as to height or yard regulations may be added to or enlarged if such addition or enlargement conforms to all the regulations of the zone in which it is located; provided, that a residential building nonconforming as to height regulations may be added to or enlarged notwithstanding the fact that enlargement may violate yard regulations, and a building as to yard regulations may be added to or enlarged; the fact that such addition or enlargement violates height

(d) A nonconforming building which is damaged or partially destroyed by fire, flood, wind, earthquake, or other calamity, to the extent of not more than fifty percent (50%) of its value at the time of such damage or destruction, may be restored if the total cost of such restoration does not exceed fifty percent (50%) of the value of the building at the time of such damage or destruction. Where the damage or destruction exceeds said value, the building shall not be repaired or reconstructed unless the entire building is made to conform to all regulations for a new building in the zone in which it is located.

(e) A building nonconforming as to restrictions set forth in § 17203 of this Title may be maintained and repaired but may not be enlarged, and in the case of its damage or partial destruction by fire, flood, wind, earthquake, or other calamity, to the extent of not more than fifty percent (50%) of its replacement cost at the time of such damage or destruction, then it may be restored if the total cost of such restoration does not exceed fifty percent (50%) of the replacement cost of the building at the time of such damage or destruction. Where the damage or destruction exceeds said cost, the building shall not be repaired or reconstructed. [Enacted 1952; subsection (e) added by P.L. 9-163, effective March 7, 1968.]

§ 17301. Nonconforming use of buildings.

(a) The nonconforming use of a building, existing at the time this law became effective, may be continued.

(b) The use of a nonconforming building may be changed to any other use which is permitted in the same zone as the use for which the building or structure is designed or intended. The use of a non-conforming building may also be changed to any use permitted in a more restricted zone classification. Where the use of a non-conforming building is hereafter changed to a use of a more restricted zone classification, it shall not thereafter be changed to a use of a less restricted zone classification. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17302. Nonconforming use of land. The nonconforming use of land, existing at the time this law became effective, may be continued except that such use shall not be extended either on the same or on to adjoining property. Where a nonconforming use of land is discontinued or

changed, any future use of such land shall be in conformity with the provisions of this Title. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17303. Nonconforming by reclassification or change. The foregoing provisions of this Title shall also apply to buildings, land and uses which hereafter become nonconforming due to any classification or reclassification of zone or to any change in the provisions of this Title. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

CHAPTER VIII
Automobile Parking and Loading Space Regulations

- § 17350. Automobile parking space
§ 17351. General requirements
§ 17352. Loading space

§ 17350. Automobile parking space. Off-street automobile parking space shall be provided as follows:

(a) For dwelling, at least two (2) automobile parking spaces for each dwelling unit;

(b) For hotels, at least one (1) automobile parking space for each four (4) guest rooms;

(c) For places of assembly, such as churches, auditoriums or theaters with seating facilities, one (1) parking space for each four (4) seats;

(d) For places of assembly, such as restaurants or night clubs without fixed seating facilities, one (1) parking space for each one hundred (100) square feet of customer area in such use;

(e) For retail sales of building materials, and goods requiring extensive display areas, industrial buildings and warehouses, one (1) parking space for each eight hundred (800) square feet of area in such use, exclusive of loading requirements;

(f) For retail and wholesale sales and services, exclusive of warehouse activity, at least one (1) space for each one hundred and fifty (150) square feet or portion thereof of usable commercial floor area;

(g) For professional and business offices, public administration offices, one (1) parking space for each four hundred (400) square feet or portion thereof of floor area;

(h) For offices and clinics, of healing arts, at least five (5) spaces for each practitioner;

(i) For hospitals and nursing homes, at least one (1) space for each two (2) beds;

(j) Three (3) spaces for every four (4) employees;

(k) Total parking requirements will be a total of all applicable elements in paragraphs (a) through (k);

(l) Appropriate parking space for open space activities such as swimming beaches, picnic areas, campgrounds, boating areas, shall be determined by the Territorial Planning Commission. [Enacted 1952; Amended by P.L. 9-205, effective July 10, 1968; Amended by P.L. 11-60, effective June 10, 1971; Amended by P.L. 12-142, effective May 21, 1974;]

§ 17351. General requirements. (a) Automobile parking space required by this Title shall be provided at the time of the erection of any main building or at the time any existing main building is enlarged or increased in capacity by adding dwelling units, guest rooms or floor area, and such parking space shall thereafter be maintained.

(b) In the case of a dwelling, the automobile parking space shall be on the same lot and may be provided either in a private garage or in a private automobile parking area.

(c) In the case of multi-residential buildings, churches, theaters, clinics, commercial or industrial buildings, the automobile parking space shall be on the same lot or may be provided in a parking garage available to the public or a private parking area adjacent thereto.

(d) Every automobile parking space shall contain a minimum of one hundred and eighty (180) square feet and shall have adequate access to a public right of way. [Enacted 1952; Amended by P.L. 12-142, effective May 31, 1974.]

§ 17352. Loading space. Off-street loading spaces for every commercial or industrial building shall be provided, located and scaled to meet the anticipated needs of all establishments and activities likely to require such space. In general, off-street loading space shall be located in service areas at the rear or sides of establishments in such a way that there will be minimum interference with off-street parking or vehicular movement in off-street parking areas. [Enacted 1952; Repealed and reenacted by P.L. 12-142, effective May 31, 1974] by P.L. 1-00, 1952.]

CHAPTER IX Sign Regulations

- § 17400. Restriction of use.
§ 17401. Erection of signs.

§ 17400. Restriction of use. No structure of any kind or character erected or maintained for outdoor advertising or identification purposes, upon which any poster, bill, printing, painting, or other advertisement of any kind whatsoever is placed, including statuary for advertising or identification purposes, and no card, cloth, paper, metal, painted or wooden sign of any character placed for outdoor advertising or identification purposes, on or to the ground or any tree, wall, bush, rock, fence, building, structure or thing, either privately or publicly owned, shall be placed or maintained on property adjacent to any highway, road, street, boulevard, lane, court, place, summons, trail, way, or other right of way or easement used for or laid out and intended for public passage of vehicles or of vehicles and persons except as provided below:

- a. In Residential and Agricultural zones no exterior name plate or sign shall be erected, displayed, or maintained, except the following:
 - (1) One (1) non-moving, non-flashing sign for each family residing on the premises indicating the name of the resident or pertaining to a permitted occupation provided that each such sign does not exceed three (3) square feet in area.
 - (2) One (1) non-moving, non-flashing sign, not exceeding twelve (12) square feet in area, pertaining to permitted buildings, structures, and uses of the premises other than dwellings and occupations permitted therein.
 - (3) Temporary unlighted signs aggregating not over twenty-four (24) square feet in area pertaining to the sale or lease of the premises.
 - (4) Unlighted directional signs not exceeding three (3) square feet in area pertaining to churches, schools, institutions and other public or nonprofit uses.
- b. In commercial zones, no exterior signs shall be erected, displayed or maintained except the following:
 - (1) Signs indicating the name of a person or the type of business occupying the premises or the name of the building, provided that:
 - (a) Individual signs shall be non-flashing and non-moving.
 - (b) Individual signs shall be placed flat on the building wall, shall not be higher than the roof line of the building, and shall project no further than eighteen (18) inches from the wall to which they are attached.
 - (c) Individual signs shall not cover an area in excess of five percent (05%) of the surface of the wall to which they are attached.
 - (2) Free Standing, double-faced signs identifying organized commercial shopping centers housing a variety of uses, provided that:

- (a) Such sign shall not exceed forty (40) square feet in area on each face nor twelve (12) feet in height.
- (b) Such structure shall not be placed closer than ten (10) feet to any street or highway right of way.
- (c) Such signs shall be non-moving and non-flashing.
- (d) One (1) such sign shall be permitted for each such shopping center.
- c. In Industrial zones no exterior signs shall be erected, displayed or maintained except the following:
 - (1) Signs indicating the name of the person, or the type of industry occupying the premises or the name of the building, provided that:
 - (a) Individual signs shall be non-flashing and non-moving.
 - (b) Individual signs shall be placed flat on the building wall, shall not be higher than the roof line of the building, and shall project no further than eighteen (18) inches from the wall to which they are attached.
 - (c) Individual signs shall not cover an area in excess of ten percent (10%) of the surface of the wall to which they are attached.
 - (2) Free standing signs identifying the name of the owner or occupant of the premises, or advertising goods manufactured or produced, or services rendered, on the premises, provided that:
 - (a) Such sign shall not exceed sixty (60) square feet in area nor twelve feet (12) in height.
 - (b) Such structure shall not be placed closer than ten (10) feet to any street or highway right of way.
 - (c) Such signs shall be non-moving and non-flashing.
 - (d) One (1) such sign shall be allowed for each industrial structure, or complex of structures housing a single industrial user.
- d. The provisions of this section shall not apply to any sign placed by or for purposes of any charitable, religious and civic organization, individual or entity, if the same remains posted or erected for a period of not more than sixty (60) days.

§ 17401. Erection of Signs. All permitted signs shall be erected in such a manner as not to create a hazard to public safety or property, and shall be resistant to winds, typhoon, earthquake or other natural phenomenon. Engineering design shall be based on applicable sections of the Building Law of Guam (Title XXXII Government Code of Guam).

The Building Official shall set specific engineering design standards. Application, accompanied by detailed drawings and specifications shall be submitted to the Building Official, who will review said plans and grant permit for the erection of said sign, free-standing or attached. The Building Official shall refer said plans to the zoning inspector to assure conformity to the provisions of this Chapter. [Original Chapter IX, consisting of §§ 17400-17403 as enacted in 1952 and added by P.L. 2-12, effective February 17, 1953, was repealed and New Chapter IX (§§ 17400-17401) added by P.L. 8-176, effective August 19, 1966.]

CHAPTER X Junk Yards

- § 17425. Permits required.
§ 17426. Improvement standards.
§ 17427. Application required.
§ 17428. Hearing required.
§ 17429. Permit issued or denied.
§ 17420. Nonconforming junk yards.

§ 17425. Permits required. No person shall establish a junk yard or extend the boundaries of an existing junk yard without obtaining a permit from the Territorial Planning Commission. Junk yards which are established on the effective date of this Chapter shall be governed by the provisions of § 17430.

§ 17426. Improvement standards.

- (a) The minimum enclosed area for a junk yard shall be forty thousand (40,000) square feet.
- (b) The junk yard shall be enclosed by a fence not less than eight (8) feet in height.
- (c) The junk yard enclosure shall be set back forty (40) feet from any public road, and twenty (20) feet from all abutting property lines.
- (d) The exterior yards established by subparagraph (c) above shall be maintained in a sanitary and not unsightly manner.

§ 17427. Application required. The owner shall make application for the issuance of a permit under this Chapter to the Territorial Planning Commission. Such application shall include:

- (a) A statement of intent.
- (b) A map of the general area showing the subject lot and all abutting properties, with names and addresses of owners; and
- (c) A proposed site plan, showing proposed enclosure, access and egress

§ 17428. Hearing required. Within one (1) month of the first regularly scheduled Territorial Planning Commission meeting after receipt of an application, the Territorial Planning Commission shall hold a public hearing on the proposed junk yard. The Territorial Planning Commission shall cause notice of such application and hearing to be sent to abutting property owners by registered mail, and advertisement of such hearing to appear in a newspaper of general circulation throughout the territory at least ten (10) days prior to the hearing.

§ 17429. Permit issued or denied. After such public hearing, if the Territorial Planning Commission determines that the standards set forth in § 17451 are met, the Territorial Planning Commission shall issue a permit. Any person aggrieved by a decision of the Territorial Planning Commission under this section shall have the right to appeal to the Island Court as provided in § 17506 of this Title.

§ 17430. Nonconforming junk yards.

- (a) The nonconforming use of a building or premises for the purpose of operating a junk yard within any Agricultural (A), Residential (R1 and R2), or Commercial Zone (C and LC) shall, within five (5) years after the effective date of this Chapter, be discontinued and the building or premises thereafter devoted to a use permitted in the zone in which such building or premises are located.
- (b) The nonconforming use of a building or premises for the purpose of operating a junk yard within a Light Industrial (M1) Zone may continue subject to the provisions of Chapter VII of this Title, provided that it is made to conform to the provisions of § 17426 within the (1) year of the effective date of this Chapter. If such action is not taken, the provisions of subparagraph (a) shall apply. [Original Chapter X, consisting of §§ 17450-17453 renumbered to Chapter XI by P.L. 9-126, approved January 29, 1968, effective March 29, 1968. New Chapter X, consisting of §§ 17425-17430, added by P.L. 9-126, approved January 29, 1968, effective March 29, 1968.]

CHAPTER XI Administration and Enforcement

- § 17450. Enforcement.
- § 17451. Building permit required.
- § 17452. Building permit not to be issued.
- § 17453. License approval required.

§ 17450. Enforcement. The Building Official designated in Title XXXII of the Government Code of Guam shall have the power and duty to enforce the provisions of this law. All authority granted to him by Title XXXII of this Code may be used in furtherance of these enforcement activities, whenever such authority is necessary and applicable. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17451. Building permit required. Before commencing the construction of a new building or structure, or the alteration, enlargement or moving of an existing building or structure, a building permit authorizing such work shall first be obtained from the Building Official as provided for in Title XXXII of the Government Code of Guam; provided, however, that the Building Official may delegate the authority to issue permits outside of the organized villages to the commissioners referred to in Title XXVI of this Code. [Amended by P.L. 2-21, effective June 23, 1953; included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17452. Building permit not to be issued. No building permit or certificate of occupancy shall be issued by the Building Official for the erection, alteration, enlargement, or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this law. Any building permit or certificate of occupancy issued in conflict with the provisions of this Title, shall be null and void. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17453. License approval required. No license pertaining to the use of land or building shall be issued by any department, officer or employee of the government of Guam, vested with such duty, unless the application for such license has been approved by the Building Official as to the conformance of said use with the provisions of this Title. Any license issued in conflict with the provisions of this Title shall be null and void. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.] [Renumbered to Chapter XI from original Chapter X by P.L. 9-126, approved January 29, 1968, effective March 29, 1968.]

CHAPTER XII Appeals and Reviews

- § 17500. Appeals involving administration enforcement.
- § 17501. Variances.
- § 17502. Variance requirements.
- § 17503. Variance application - form and contents.
- § 17504. Hearing date - notice.

- § 17505. Decision by Territorial Planning Commission.
- § 17506. Decision final - appeal.
- § 17507. Jurisdiction.

§ 17500. Appeals involving administration enforcement. The Territorial Planning Commission shall also have and exercise the following powers:

(a) To hear and decide appeals where it is alleged by the appellant that there is an error in any refusal of a building permit or certificate of occupancy, or other order, requirement, or decision made by the Building Official or other administration official in the administration of this Title; and

(b) To hear and decide appeals from any order, requirement, decision or determination made by the Building Official in the enforcement of the provisions of this Title.

The procedure for filing such appeals as well as the procedure governing the actions of the Commission thereon, shall be similar as that set forth in §§ 31062-31071 inclusive of Title XXXII of the Government Code of Guam. [Enacted 1952; amended by P.L. 7-91, effective February 13, 1964.]

§ 17501. Variances. Where practical difficulties, unnecessary hardships, or results inconsistent with the general purposes of this Title would occur from its strict literal interpretation or enforcement, the Territorial Planning Commission shall have authority to grant such variances therefrom as may be in harmony with its general purpose and intent, so that the spirit of the law shall be observed, public safety secured, and substantial justice done, including the following:

(a) Permit the extension of an existing or proposed conforming building or use into and adjoining more restricted zone for a distance not exceeding fifty (50) feet;

(b) Permit a building or use (including automobile parking) on a lot immediately adjoining or across an alley from a less restricted zone, upon such conditions and safeguards as will tend to cause an effective transition from the less restricted to the more restricted zone;

(c) Permit the addition, enlargement or moving of a nonconforming building or structure;

(d) Permit such modification of the height regulations as may be necessary to secure an appropriate building or structure on a lot which has such physical characteristics or is so located with relation to surrounding development that it cannot be properly improved without such modification;

(e) Permit such modification of the yard, lot width or lot area regulations or requirements as may be necessary to secure an appropriate building or structure on a lot which is of such size, shape or topography, or is located in relation to adjacent property or improvements that it cannot be appropriately improved without such modification;

(f) Permit such modifications on the lot area per dwelling unit (density) requirements as may be necessary to secure an appropriate development of a lot in keeping with its size and location;

(g) Permit the modification or waiver of the automobile parking space or loading space requirements where such modification would not be inconsistent with the purpose of this Title;

(h) Permit temporary buildings or uses for a period not to exceed two (2) years in undeveloped areas;

(i) Permit the following uses in zones from which they are prohibited by this Title: Governmental enterprises; public utilities and public

service uses or structures; hospitals or institutions; or development of natural resources.

(j) Permit the construction of buildings in violation of the restrictions of § 17203 of this Title. [Enacted 1952; Subsection (j) added by P.L. 9-163, effective March 7, 1968.]

§ 17501 (k). [§ 17501 (j)]. "Permit the owner of a lot in a rural zone to parcel therefrom one lot not less than ten thousand (10,000) square feet in area to be used for a single family residence, such variance to be conditioned upon a prohibition on any subsequent parcelling of the lot and that the parcelled out lot be served by water and power and a public road." [Subparagraph (k) added as (j) by P.L. 10-173, effective August 15, 1970; relettered to (k) by Editor.]

§ 17502. Variance requirements. No variance shall be granted by the Commission unless it finds:

(a) That the strict application of the provisions of this Title would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the law;

(b) That there are exceptional circumstances or conditions applicable to the property involved or to the intended use thereof that do not apply generally to other property in the same zone.

(c) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located; and

(d) That the granting of such variance will not be contrary to the objectives of any part of the "Master Plan" adopted by the Commission or Legislature.

(e) That, as to variances from the restrictions of § 17203 of this Title, the proposed building will substantially enhance the recreational, aesthetic or commercial value of the beach area upon which the building is to be constructed and that such building will not interfere with or adversely affect the surrounding property owners' or the public's right to an untrammelled use of the beach and its natural beauty. [Subsection (e) added by P.L. 9-163, effective March 7, 1968.]

The above requirements need not apply to the types of uses specified in § 17501 (i), and variances for such uses shall only be granted by the Commission where it finds that they are deemed essential or desirable to the public convenience or welfare, are in harmony with the various elements or objectives of the "Master Plan," and will not be materially detrimental or injurious to the property or improvements in the immediate neighborhood. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17503. Variance application - form and contents. An application for variance shall be filed with the Executive Secretary of the Commission upon a form and accompanied by such data and information as the Commission may prescribe. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17504. Hearing date - notice. Upon the filing of variance application the Commission shall fix a reasonable time for hearing the same and shall give notice thereof to the applicant and may give notice to any other parties in interest. All hearings shall be conducted according to rules established by the Commission, but any party in interest may appear in person, or by designated attorney or agent. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17505. Decision by Territorial Planning Commission. If, from the facts presented with the application at the hearing, or by investigation by or at the instance of the Commission, the Commission makes the findings set forth in § 17502, it may grant the variance in whole or in part, upon such terms and conditions as it deems necessary to conform to the general intent and purpose of this law. If the Commission fails to make said findings, it shall deny the application. Each decision by the Commission authorizing a variance from the regulations herein established must be by resolution adopted by a majority of its membership, setting forth in writing the findings required by § 17502, except that no written findings shall be required in granting minor variances from the height, yard, lot width, lot area or lot area per dwelling unit requirements. The Commission shall make its decision on each variance application within a reasonable time and shall forthwith furnish a copy thereof to the applicant and to other parties in interest who have requested to be notified. Additional copies of the decision shall be filed in the records of the Department of Public Works. If the decision filed involves a variance granted by the Commission, said variance shall be the authority for the Director of Land Management to endorse and to issue any building permit or certificate of occupancy in conformance thereto and for the approval of any application for the approval of a required license. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17506. Decision final - appeal. The decision by the Commission on any variance shall be final, except that any party aggrieved by such decision shall be entitled to a judicial review thereof by application to the Island Court within fifteen (15) days after the filing of the Commission's decision in the Department of Land Management and the Department of Public Works. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952.]

§ 17507. Jurisdiction. The Island Court of Guam shall have jurisdiction over all actions arising from the provisions of this Title. [added by P.L. 7-91, effective February 13, 1964.] [Chapter XII renumbered from original Chapter XI by P.L. 9-126, approved January 29, 1968, effective March 29, 1968.]

CHAPTER XIII Changes of Zones

- § 17600. Requirements for changes.
- § 17601. Procedure.
- § 17602. Application - form and contents.
- § 17603. Hearing date - notice.
- § 17604. Decision by Commission.
- § 17605. Planned development districts.
- § 17606. Change of "Zoning Map."

§ 17600. Requirements for changes. The Commission may, with the approval of the Governor, change the zones established under this Title whenever it finds that the public necessity, convenience and general welfare justify such action. [Enacted 1952; repealed and added by P.L. 6-136 effective December 18, 1962.]

§ 17601. Procedure. A proposed change may be initiated by the Commission or by an application directed to the Commission by any person owning or leasing real property within the area covered by the zone. [Enacted 1952; repealed and added by P.L. 6-136, effective December 18, 1962.]

§ 17602. Application - form and contents. An application for a change of zone shall be filed with the Commission upon a form and accompanied by such data and information as the Commission may prescribe. [Enacted 1952; repealed and added by P.L. 6-136, effective December 18, 1962.]

§ 17603. Hearing date - notice. Upon the filing of an application for change of zone, the Commission shall hold at least one (1) hearing thereon in the municipal district where the property to be rezoned is located, as such districts are described in Chapter I of Title XVI of this Code, notice of time and place of which shall be given by at least one (1) publication in a newspaper of general circulation, at least ten (10) days before the day of said hearing, and by mail to the Commissioner of the municipal district concerned, and to those landowners owning land within five hundred (500) feet of the property for which rezoning is requested, the mailing addresses for such landowners to be in the Real Estate Tax records. [Amended by P.L. 10-158, effective July 3, 1970.]

§ 17604. Decision by Commission. The Commission shall consider the proposed change of zone and may approve or disapprove the same, in whole or in part. The Commission shall make its findings and determinations within forty (40) days from the date of the hearing thereon and shall forward notice of such decision to the applicant, if any. If the application is approved in whole or in part by the Commission, the same shall be forwarded to the Governor who may approve or disapprove the proposed change in whole or in part. [Enacted 1952; repealed and added by P.L. 6-136, effective December 18, 1962.]

§ 17605. Planned development districts. A "PD" District enables the unified development of a substantial land area with such combination of uses as shall be appropriate to an integrated plan for the area. The procedure for establishing a "PD" District is the same as that for the rezoning of an area, providing that a detailed plan be submitted to and discussed with the Territorial Planning Commission. The application shall be accompanied by the appropriate fee and the detailed plan, or revision thereof. The Territorial Planning Commission may approve the detailed plan and rezoning, following the required hearing, upon findings that the plan, considering structures, uses, access, regulations and layout fixed in it, comprises:

(a) An area of sufficient acreage to constitute a large planning unit having special attributes for integrated development;

(b) An appropriate development of the area from the viewpoints of its natural features, location and suitability for particular uses;

(c) A combination of structures and uses which are in reasonable association and proportion to make a harmonious unit and likely to continue compatibly with one another;

(d) All structures, including accessory structures, shall not cover more than thirty percent (30%) of the area;

(e) A project adequately serviced by the necessary public services, existing or proposed;

(f) A project consistent with an appropriate development of adjacent areas and not unreasonably detrimental to the existing structures and uses in such areas; and

(g) An appropriate evolution of the comprehensive plan for that portion of the territory.

In approving a detailed development plan, the Territorial Planning Commission may impose such regulations of yards, open space, lot coverage, density, and height as are reasonably required to permit the foregoing findings. [Enacted 1952; repealed and added by P.L. 6-136, effective December 18, 1962; repealed and added by P.L. 9-232, effective August 10, 1968.]

§ 17606. Change of "Zoning Map." Any change of zones or approval of comprehensive community plan pursuant to this Chapter shall be endorsed and delineated upon the "Zoning Map" and shall constitute an amendment of said map. [Added by P.L. 6-136, effective December 18, 1962.] [Chapter XIII renumber from original Chapter XII by P.L. 9-126, approved January 29, 1968, effective March 29, 1968.]

§ 17607. (See below of page)

CHAPTER XIV

Recording - Submission to the Legislature

- § 17625. Recording.
- § 17626. Inspection.
- § 17627. Submission to the Legislature.
- § 17628. Failure to submit.

§ 17625. Recording. Upon the approval of any "Zoning Map" or amendment thereto, a copy of same shall be recorded in the Department of Land Management.

§ 17626. Inspection. Any "Zoning Map" or amendment thereto recorded pursuant to this Chapter shall be open to public inspection during normal government business hours.

§ 17627. Submission to the Legislature. The "Zoning Map" or amendment thereto adopted by the Commission and approved by the Governor shall be submitted to the next portion of the next regular session of the Legislature convening after the said approval. The "Zoning Map" or any amendments thereto shall remain in effect unless amended or repealed by statute.

§ 17628. Failure to submit. The "Zoning Map" or any amendments thereto not submitted to the Legislature in accordance with this Chapter shall become automatically inoperative and void at midnight of the last day of the session to which it should have been submitted.

[Editor's Note: Chapter XIV was added as new Chapter XIII by P.L. 6-136, effective December 18, 1962. Original Chapter XIII, as enacted in 1952, was renumbered to Chapter XIV by P.L. 6-136, effective December 18, 1962. New Chapter XIII and old Chapter XIV were renumbered to present Chapters XIV and XV respectively by P.L. 9-126, approved January 29, 1968, and effective March 29, 1968.]

§ 17807. No additional land may be established as a 'rural zone' and no land presently zoned 'A' may be rezoned without the Commission first having considered an agricultural impact statement which shall be submitted by the Director of the Department of Agriculture. This statement shall provide a detailed statement of:

- (a) The agricultural impact of the proposed rezoning upon the agricultural components of the Guam Master Plan.
- (b) Any adverse conservation or agricultural effects which cannot be avoided should the rezoning be approved.
- (c) The Director's opinion whether said rezoning should be approved and reasons therefor. [Added by P.L. 12-208, effective January 23, 1975.]

CHAPTER XV

Fees

§ 17650. Filing fees for appeals - variances - changes of zones.

§ 17650. Filing fees for appeals - variances - changes of zones. Before accepting for filing any application hereafter mentioned, the Commission shall charge and collect the following filing fees:

- (a) For Appeals \$ 10.00
- (b) For variances \$ 15.00
- (c) For changes of zones \$ 10.00

[Amended by P.L. 10-156, effective July 3, 1970.]

CHAPTER XVI

Penalty for Violation

§ 17700. Penalty

§ 17700. Penalty. Any person, firm, corporation or officer thereof, violating any of the provisions of this Title shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not more than one hundred dollars (\$100.00) or by imprisonment in jail for a period of not more than one (1) month, or by both such fine and imprisonment. Such person, firm or corporation shall be deemed guilty for each day during any portion of which any violation is committed, continued, or permitted and shall be punishable as herein provided. [Included in Original Government Code of Guam enacted by P.L. 1-88, 1952, as Chapter XIV; renumbered to Chapter XV by P.L. 6-136, effective December 18, 1962; further renumbered to Chapter XVI by P.L. 9-126, approved January 29, 1968, effective March 29, 1968.]

TITLE XIX
Subdivision Law

- Chapter I. General Provisions.
 II. Procedure for Subdividing Land.
 III. Lot Parcelling and Agricultural Subdivisions.
 IV. Requirements for Plans and Maps.
 V. Improvements.
 VI. Variances and Appeals.
 VII. Penalties, Amendments, Interpretation and Separability.

CHAPTER I
General Provisions

- § 18000. Title.
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 18001.5 Decedents' estates.
 18002. Definitions.
 18003. Authority of the Commission.
 18004. Commission approval.
 18005. General requirements for subdivisions.

§ 18000. Title. This Title shall be known as "The Subdivision Law." [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18001. Purpose and intent. The purpose of this Title and of any rules, regulations, specifications and standards adopted, pursuant thereto, is to control and regulate the development and/or subdivision of any land for any purpose whatsoever. Such control and regulation is determined to be necessary to provide for the orderly growth and harmonious development of the territory; to insure adequate traffic circulation through coordinated street, road and highway systems; to achieve individual property lots of maximum utility and livability; to secure adequate provisions for water supply, drainage, sanitary sewerage and other health requirements; to permit the conveyance of land by accurate legal description; and to provide logical procedures for the achievement of this purpose. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962; Amended by P.L. 12-90, effective January 16, 1974.]

§ 18001.1. Compliance with Master Plan. Development and/or subdivision of all land and roads shall conform to that land use or road location delineated in the latest revision of the Territorial Master Plan, initially approved in April 1967.

(a) Construction on land designated for future road or public purposes, contrary to the use indicated in the Master Plan, shall not be authorized, irrespective of land ownership.

(b) Specifications for construction, repair, and/or reconstruction of roads shall conform to Department of Public Works Standards, and shall follow requirements delineated for that zone in which the subdivision or construction is located. [Added by P.L. 12-90, effective January 16, 1974.]

§ 18001.5. (a) Chapter V of this Title shall not apply to land which is an asset of the estate of a descendant, provided however, that before the distribution of any such land by the Court, the Territorial Planner or the Commission shall require street and utility easements on said land to insure lot division, consistent with the general plan; further provided however, that the minimum size of each lot shall be no less than 10,000 square feet.

(b) Chapter V of this Title shall not apply to land which has been owned in fee simple for a period of not less than five (5) years by a person who divides said land among his living children or their descendants by way of inter vivos gift; provided, however, that such land shall be deeded to said children or descendants in fee simple and said deeds shall contain alienation clauses to the effect that the children or descendants in fee simple and said deeds shall contain alienation clauses to the effect that the children or descendants shall not sell, lease or otherwise alienate such lots for a period of at least five (5) years, and further provided that before a period of at least five (5) years, and further provided that before the map be filed for record, the Territorial Planner or the Commission shall require street and utility easements on said land to insure lot divisions consistent with the general plan and that the minimum size of each lot shall be not less than 10,000 square feet."

§ 18002. Definitions. The following words and phrases, when used herein, shall have the meaning respectively hereto ascribed to them, except where a different meaning may be clearly indicated by the context:

"(a) 'Agricultural Subdivision' shall mean a subdivision having no lots, parcels or sites smaller than forty thousand (40,000) square feet and in which all lots, parcels or sites are used principally for agriculture, single family residence sites or as an agriculture-homesite combination; except that the term 'agricultural subdivision' shall include a subdivision resulting from a distribution by the Court pursuant to Section 18001.5(a) or Section 18001.5(b) of this Title with no lots, parcels or sites smaller than ten thousand (10,000) square feet

(b) "Commissioner" shall mean the Commissioner of the Department of Land and Natural Resources.

(c) "Easement" shall mean a right or use of land to a person or persons, to the public generally, or to the government of Guam.

(d) "Engineer" shall mean a person who is registered pursuant to Title XLIII, Government Code of Guam, as an Engineer, and holds a current certificate of registration issued by the Board of Engineering and Architectural Examiners or a person exempted under the provisions of said Title XLIII.

(e) "Improvements" shall mean any beneficial or valuable site additions or alterations to a subdivision property including street grading and surfacing, water service, sanitary sewers, facilities provided for drainage and site grading.

(f) "Non-Access Reservation" shall mean the limiting of access between a right of way and the adjacent land. (A non-access reservation shall be provided only when required by the Commission and the right of access to and from such land across the right-of-way boundary shall be dedicated to the government of Guam)

(g) "Plan, General" shall mean the general plan or plans for guiding the physical development of the Territory of Guam as adopted by the Commission and approved by the Governor.

(h) "Plan, Precise" shall mean the detailed plan or plans for guiding and controlling the physical development of specific projects as adopted by the Commission and approved by the Governor.

(i) "Planning Division" shall mean the Planning Division of the Department of Land Management.

(j) "Record Map" shall mean the final subdivision map designed to be placed on record in the Land Records of the Department of Land Management.

(k) "Reservation" shall mean an area of land which the subdivider reserves free and clear of all structures for future specified purpose.

(l) "Resubdivision" shall mean the resubdividing of land in a subdivision or lot parcelling subdivision or portions thereof so as to create a new or different subdivision of such land other than is presently of record, and shall include modifications to lot lines, the creation of one or more additional lots or any other

action of land division which is not consistent with the recorded subdivision or lot parcelling subdivision map.

(m) "Reversion to Acreage" shall mean the voiding of a previous subdivision in order to revert the platted lots contained therein back to the original parcel or parcels which existed prior to the subdivision.

(n) "Right of Way" shall include the entire width between property lines of a highway, street or alley.

(o) "Sanitation Division" shall mean the Sanitation Division of the Department of Public Health and Social Services.

(p) "Subdivide" shall mean the act of creating a subdivision.

(q) "Subdivider" shall mean any individual, firm, association, syndicate, corporation, trust or any other legal entity proceeding to effect a subdivision of land for himself or another.

(r) "Subdivision" shall mean the division of any parcel of land into six (6) or more lots. Subdivision shall include resubdivision and reversion to acreage and, where appropriate to context, relates to the process of subdividing or to the land subdivided regardless of the method used to accomplish such action, whether by sale, design, rent, lease, deed of gift, grant in gift or any other method of transferring title whether for remuneration or not and whether immediate or future.

(s) "Subdivision, Lot Parcelling" shall mean the division of a lot legally existing on the effective date of this Title into no more than five (5) parcels. Lot parcelling of a lot shall include all methods of such action whether by sale, design, rent, lease, deed of gift, grant in gift or any other method of transferring title whether for remuneration or not and whether immediate or future.

(t) "Surveyor" shall mean a person who is registered pursuant to Title XLIII, Government Code of Guam, as a land surveyor, and holds a current certificate of registration issued by the Board of Engineering and Architectural Examiners or a person exempted under the provisions of said Title XLIII.

(u) "Tentative Map" shall mean a preliminary subdivision map for the purpose of showing the design of a proposed subdivision and the existing conditions in and around it.

(v) "Territorial Planner" shall mean the Chief of Planning Division, Department of Land Management, government of Guam.

(w) "Territorial Surveyor" shall mean the person designated as the Territorial Surveyor by the Director of Land Management. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962; (o) amended by editor pursuant to P.L. 7-101, effective July 11, 1964, and P.L. 9-147, effective February 16, 1968.]

§ 18003. Authority of the Commission. The Commission shall have jurisdiction and cognizance of all matters relating to subdividing and subsequent development of land within the territory. The Commission shall prescribe and adopt such rules and regulations, which shall include, but not be limited to, specifications and standards for development of subdivisions, as are, in its judgment, necessary to effectuate the purposes and intent of this Title. Such rules and regulations may provide for delegation of functions of review and inspection of proposed, tentative and final plans and maps, and of subdivisions, to other agencies and departments of the government. Such rules and regulations shall become effective upon approval by

the Governor. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18004. Commission approval. No subdivision map presented for filing as a record in the Department of Land Management shall be recorded without the prior approval of the Commission. The Commission shall not approve the record map of a subdivision unless such map conforms to all the requirements of this Title and any applicable rules, regulations, specifications or standards adopted by the Commission. No subdivider shall subdivide any land except in accordance with this Title, or sell, lease or assign, or offer for sale, any subdivision or a proposed subdivision or any part thereof, or any lot, parcel or site therein until the record map has been officially recorded. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18005. General requirements for subdivisions. In all subdivisions presented for recording under this Title, the subdivider shall:

(a) Not subdivide or develop land for any purpose contrary to the provisions of the Zoning Law, Title XVIII, Government Code of Guam.

(b) Cause every lot to abut a roadway right of way having a minimum width of forty (40) feet, except that the Commission may, where circumstances warrant, permit the subdivider to utilize roadway rights-of-way less than forty (40) feet but in no case less than twenty (20) feet in width. [Subparagraph (b) amended by P.L. 10-157, effective July 3, 1970.]

(c) Except as may be provided for pursuant to § 21208.3, Title XXII, Government Code of Guam, provide for the installation of power, water and telephone lines, fire hydrants, roads and highways within the subdivision in accord with any general or precise plan approved by the Commission.

(d) Where an established framework of local streets exists, provide for the uniformity of street widths and alignment thereto with the streets of the subdivision, and for the continuation of existing street names.

(e) Provide for adequate light, air and privacy on all lots regardless of land use, and design the location of streets to prevent excessive grading and scarring of the landscape.

(f) Provide sufficient drainage of the land to provide reasonable protection against flooding.

(g) Provide that streets within residential areas shall not be planned for through traffic in order to insure privacy and safety. [Added by P.L. 6-134, effective December 18, 1962.]

CHAPTER II

Procedure for Subdividing Land

- § 18100. Application to establish subdivision.
- § 18101. Fees.
- § 18102. Review of tentative plans.
- § 18103. Action by Commission.
- § 18104. Submission of final plans.
- § 18105. Final plans approval and recordation.

- § 18106. Reversion to acreage, maps and plats.
- § 18107. Building permits.
- § 18108. Revocation of tentative plans.

§ 18100. Application to establish subdivision. A subdivider desiring to subdivide or develop land pursuant to this Title shall make a written application therefor on a form prescribed by the Commission. The application shall be filed with the Territorial Planner and shall be accompanied by tentative subdivision plans prepared in accordance with § 18300 of this Title. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18101. Fees. The subdivider shall at the time of filing tentative subdivision plans pay a uniform check fee of ten dollars (\$10.00) plus one dollar (\$1.00) for each final lot shown on the subdivision. Such fees shall not be returned in the event the application is not approved. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18102. Review of tentative plans. The Territorial Planner shall within three (3) days after receipt of such application transmit copies of the tentative plans to departments and agencies of the government to which have been delegated responsibility for technical review. Such agencies and departments shall review the plans and transmit their written findings and recommendations to the Territorial Planner within fifteen (15) days after receipt of such plans. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18103. Action by Commission. After review, the tentative subdivision plans shall be transmitted to the Commission at its next regularly scheduled meeting by the Territorial Planner, together with all findings and recommendations. The Commission shall thereafter approve, conditionally approve, or disapprove the plans. When a tentative plan is disapproved, it may not thereafter be reconsidered unless modified and a new application filed. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18104. Submission of final plans. Within one (1) year after approval of tentative subdivision plans, the subdivider shall file with the Territorial Planner the final plans prepared in accordance with § 18301 of this Title. The final plans shall be accompanied by a written application for approval thereof in a form prescribed by the Commission [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18105. Final plans approval and recordation. The Territorial Planner shall review final plan documents as submitted for conformity to the approved tentative plans. At the next regularly scheduled Commission meeting no less than two (2) days following receipt of final plans, the Territorial Planner shall present the plans to the Commission for action. Final plans submitted in strict compliance with approved tentative plans shall be approved. Final plans which are not in strict compliance with approved tentative plans shall, within fifteen (15) days, be approved or a written determination made specifying work necessary for subdivision completion prior

to final Commission approval. After approval by the Commission of the final plan map, the subdivider shall record said map in accordance with Article IV, Chapter II, Title XIV, Government Code of Guam. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18106. Reversion to acreage, maps and plats. When a reversion to acreage is made, no tentative plans shall be required. The subdivider shall prepare a final map showing the existing subdivision and the original parcel or parcels which shall result from the reversion. No engineering plans shall be required. Upon approval of the final map the map may be completed and submitted as a record plat. No as-built surveys shall be required. The plat shall be clearly marked "reversion to acreage" and any variance from the requirements of a subdivision record plat shall be as determined by the Commission. The fee or other interest in any subdivision improvements, easements or road rights of way within the perimeter of the subdivision which has been dedicated to the government may be quitclaimed to the subdivider at the discretion of the government. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18107. Building permits. The Director of Public Works or his designated building official shall issue no building or construction permits for any development within the subdivision or lot parcelling until the tentative plans have been approved, nor issue individual building permits until the record map has been recorded. The Territorial Planner shall notify the Director of Public Works in writing of the approval of the final plans and of the recordation of the record map immediately after such approval is given and after such recording is completed. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18108. Revocation of tentative plans. The Commission shall not consider or approve final plans for a subdivision which are submitted after one (1) year, or after any extension of time granted by the Commission during such year, following approval of tentative plans. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

CHAPTER III

Lot Parcelling and Agricultural Subdivisions

- § 18200. General.
- § 18201. Application to establish lot parcelling or agricultural subdivisions.
- § 18202. Lot parcelling approval.
- § 18203. Parcelling map recordation.
- § 18204. Survey required for parcelling map.
- § 18205. Resubdivisions.
- § 18206. Certificate of ownership required (Repealed).
- § 18207. Action on final map (Repealed).
- § 18208. Effective recordation of final map (Repealed).

§ 18200. General. The requirements of Chapter II and Chapter V of this Title shall not apply to lot parcelling subdivisions and

agricultural subdivisions. [enacted 1952; repealed and added by P. L. 6-134, effective December 18, 1962.]

§ 18201. Application to establish lot parcelling or agricultural subdivisions. A subdivider desiring to parcel lots or subdivide land for agricultural purposes shall make a written application therefor on a form prescribed by the Commission. The application shall be filed with the Territorial Planner and shall be accompanied by the original and two (2) copies of a survey map prepared in accordance with § 18204 of this Title. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18202. Lot parcelling approval. Within fifteen (15) days following receipt of an application to establish a lot parcelling or agricultural subdivision, the Territorial Planner shall approve, conditionally approve, or disapprove the application, or shall submit the application to the Commission for its action. The Territorial Planner or Commission may as conditions of approval require street and utility easement reservations and require modifications to the map to insure lot divisions consistent with the general plan and with provisions of § 18400 of this Title. The Territorial Planner or Commission shall disapprove the subdivision if adopted standards of subdivision cannot be maintained. The applicant may appeal any decision of the Territorial Planner to the next regularly scheduled meeting of the Commission. There shall be no fees required for lot parcelling or agricultural subdivisions for the checking of plans or maps. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18203. Parcelling map recordation. Upon final approval of a lot parcelling or agricultural subdivision map by the Territorial Planner or Commission, the subdivider shall record the map in conformity to Article IV, Chapter II, Title XIV, Government Code of Guam, which map shall not be effective until recorded. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18204. Survey required for parcelling map. The lot parcelling map shall be prepared by a surveyor and shall show all survey and mathematical data necessary to locate and retrace all lines thereon, including bearings and distances of straight lines and radii, arc and tangent lengths for all curves. Any area reserved for utility easements, access easements, and future street areas, and other public improvements, shall be clearly delimited and designated. The survey map shall be endorsed as to its accuracy and for its conformity to standard surveying practice by the Territorial Surveyor. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18205. Resubdivisions. Resubdivisions of regular or lot parcelling subdivision shall be initiated and acted upon subject to the procedures of the Chapter, provided, however, that resubdivisions involving six (6) or more lots or resubdivisions requiring subdivision improvements shall be initiated and acted upon as a new subdivision in accordance with the provisions of Chapter II of this Title. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.] [Repealed by P.L. 6-134, effective December 18, 1962.]

CHAPTER IV Requirements for Plans and Maps

§ 18300. Form of tentative plans.

§ 18301. Form of final plans.

§ 18300. Form of tentative plans. Tentative plans will include six (6) copies of a subdivision map, two (2) copies of a statement of intent by subdivider, and two (2) copies of subdivision improvement plans.

(a) The subdivider shall cause the tentative subdivision map to be prepared by an engineer or surveyor. The map shall be clearly and legibly drawn on one or more sheets having dimensions of twenty-two inches (22") by twenty-nine inches (29"). The scale of the map shall be as prescribed by the Commission and the map shall generally include:

- (1) The tract number as issued by the Territorial Planner.
 - (2) The name and address of the owner or owners of record, of the subdivider and of the person preparing the map.
 - (3) Date, north arrow and scale.
 - (4) A key map locating the subdivision in relation to surrounding areas.
 - (5) The exact length and bearing of the exterior boundaries of the subdivision which data shall be referenced to the "Guam Geodetic Triangulation Control Net" or such alternative system of triangulation control as the Territorial Surveyor may direct.
 - (6) The accurate placement and outline of structures existing on the site.
 - (7) The location, names, and existing widths of adjacent street rights of way.
 - (8) The location and dimensions of all known existing easements and reservations.
 - (9) The location of existing utilities, sewers, drainage ditches and other drainage facilities located in, or adjacent to, the proposed subdivision.
 - (10) The lot numbers and lines of all adjacent parcels of land.
 - (11) The location, width and direction of flow of all water courses within the subdivision area.
 - (12) Topography with contour intervals of two feet (2') where the ground slope is five percent (5%) or less or contour intervals of five feet (5') where the ground slope is more than five percent (5%).
 - (13) The location and widths of all existing or proposed streets in the subdivision.
 - (14) The approximate lot layout and approximate lot dimensions of each lot.
 - (15) Areas intended to be reserved for public use.
- (b) The statement of the subdivider shall include a resume of the improvements proposed to be made in the subdivision, the existing zone district or districts applicable to the property, proposed use or uses of the subdivision lots and, in the absence of zoning, the proposed setback requirements for individual property development.
- (c) Subdivision improvement plans shall include:
- (1) Street construction plans including, but not limited to, planned grading, street centerline gradients and typical road

- cross-sections specifying material and depths.
- (2) Water and sewer line plans showing pipe sizes, routing, gradients, pressure regulation and point of origin.
 - (3) A drainage plan showing methods and facilities for collection and disposal of storm waters. The storm drainage disposal area or channel must have a demonstrated ability to accept additional water in view of capacity of area or channel and of capacity of existing improvements confining the channel.

The tentative plan shall be prepared in sufficient detail for analysis by the Commission as to sufficiency and most suitable location. The Commission may require the submission of detailed construction drawings as subdivision work is initiated to permit detailed analysis of construction conformity to law and the rules and regulations of the Commission, and to facilitate improvement inspections. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18301. Form of final plans. The final plan submitted for approval shall include a map of the subdivision and a final survey of improvements as installed.

(a) The map of the subdivision shall be prepared by and engineer or surveyor in accordance with the following:

- (1) The final map shall be clearly and legibly drawn in opaque black ink on good quality tracing paper or cloth acceptable to the Territorial Planner. Signatures shall be in opaque black ink. The size of each sheet shall be twenty-two by twenty-nine inches (22" x 29"). A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one inch (1"). The scale of the map shall be as prescribed by the Commission and shall show all details clearly, with enough sheets used to accomplish this purpose. The map shall be so made and shall be in such condition when filed that good, legible prints can be made therefrom.
- (2) The map shall contain the tract number in letters no less than one-half ($\frac{1}{2}$ ") in height, north directional point, map scale and date of final survey.
- (3) The map shall show all survey and mathematical information and data necessary to locate all monuments, and to locate and retrace any and all interior and exterior boundary lines appearing thereon including bearings and distances of straight lines, radii, arc and tangent lengths of all curves. The final map shall particularly define, designate and delineate all road and alley rights of way and easements and other parcels offered for dedication for public use.
- (4) The following certificates shall be placed on the first sheet of the map in a form prescribed by the Commission:
 - (a) Dedication of street, easements and other parcels of land intended for public use by the owner.
 - (b) Acknowledgment of dedication for certification by a Notary Public.
 - (c) Acceptance of dedication to be signed by the Governor.
 - (d) Certification by the surveyor making the map (record plat) that the map is correct and accurate and that the monuments described thereon have been so located.
 - (e) Limited access dedication where a nonaccess reservation is

used to restrict access. The map shall be lettered "Vehicular access rights dedicated to the government of Guam" along the thoroughfare adjacent to the lots affected.

- (f) Endorsement of Territorial Surveyor.
- (g) Approval by the Commission.
- (h) Certificate of recordation.

In addition, the map shall be accompanied by statements concerning any proposed deed restrictions or covenants.

(b) As part of the final plan, the subdivider shall submit a copy of an as-built drawing of all subdivision improvements. The details of the as-built drawing shall show, but not be limited to a showing of, the precise placement, siting and characteristics of water lines, drainage measures, streets, street curbs and similar constructed utilities. The as-built drawing shall be to specifications satisfactory to the Commission. [Added by P.L. 6-134, effective December 18, 1962.]

CHAPTER V Improvements

- § 18400. Required improvements.
- § 18401. Utilities extensions - planned areas.
- § 18402. Utilities extensions - unplanned areas.
- § 18403. Time allowed for completion of improvements.

§ 18400. Required improvements. The subdivider shall provide the following improvements and improvement areas within time limits specified by the Commission:

(a) Street and Alleys - Planned areas. Where general plans have been or are hereafter duly adopted and show an area as planned for development into urban uses, the following street and alley improvements shall be required:

All street and alleys within the subdivision shall be graded and drained the full width of the right of way. The roadbed portion of the right of way shall be improved with a stabilized coral base and surfaced with a light bituminous surface treatment having a minimum width of twenty-two feet (22'). The roadway centerline gradient and right-of-way cross-section including drainage ditches, travelled roadway design and paving and shoulders shall be in conformity to criteria established by the Commission.

Permanent sidewalks having a minimum width of four feet (4') shall be laid out for all streets and shall be dedicated to the government of Guam. The Commission shall establish criteria relating to width and construction of such sidewalks, and all such sidewalks shall be in conformity thereto. [Added by P.L. 11-134, effective April 26, 1972.]

(b) Street and Alleys - Unplanned Areas. Where at the time of a subdivision a general plan has not been adopted or where the general plan designates the area as agricultural, the following street and alley improvements will be required.

All streets and alleys within the subdivision shall be graded and drained the full width of the right of way. The roadbed portion of the right of way shall be improved with a stabilized coral base. The roadway centerline gradient and right-of-way cross-section including drainage ditches, travelled roadway and shoulders shall be

in conformity to criteria established by the Commission.

(c) Storm Water Drainage. Storm drainage facilities shall be provided in all subdivisions in accordance with plans prepared by the subdivider conforming to criteria established by the Commission. These facilities shall be designed to dispose of normal storm waters falling on the subdivision without hazard of flooding, inconvenience of ponding, and the erosion of public or private land.

(d) Domestic Water. Potable domestic water shall be piped onto each lot within the subdivision. Water pipes shall be new and so sized to supply normal household pressures.

(e) Sanitary Sewage Disposal. When sanitary sewers are provided in a subdivision, they shall be in conformity to plans prepared by the subdivider satisfactory to the Commission. When sewers are placed within a subdivision, the minimum permissible lot size shall be as determined by the applied zoning district, or in the absence of zoning, shall be not less than seven thousand (7,000) square feet. In subdivisions where sanitary sewers are not provided, the minimum permissible lot size shall be determined by the slope and characteristics of the subdivision soil and subsoil but in no event shall be less than is established by the applied zoning district, or in the absence of zoning, seven thousand (7,000) square feet. Determination of lot size shall be made on the basis of soil percolation tests made in conformity to standards adopted by the Commission. Lot sizes, including area and minimum widths and depths shall be related to the ability of the subdivision lands to accept the anticipated septic tank effluent whereby no sanitary problem will be created. The Commission shall establish criteria relating lot sizes and shapes to tested rates of seepage, and all lots created after the enactment of this Title shall conform thereto.

(f) Survey Monuments. Permanent concrete monuments shall be installed at all point of direction change in the subdivision perimeter and in the exterior lines of blocks. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18401. Utilities extensions - planned areas. Where general plans have been duly adopted and show an area as planned for development into urban uses, the following development criteria will apply for subdivisions within the area so delineated:

(a) Road extensions. Where roads must be extended from existing roads in order to gain suitable access to a subdivision, the subdivider shall negotiate with the property owners involved and acquire rights of way to width and alignment approved by the Commission. The subdivider shall improve such access road or roads the same as he improves the interior subdivision roads.

(b) Power, water mains, and fire hydrants may be installed by the Public Utility Agency in accordance with § 21208.3, Government Code of Guam.

(c) The subdivider shall provide easements for all utility extensions to the satisfaction of the Commission, and acceptable to the Public Utility Agency. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18402. Utilities extensions - unplanned areas. In areas where general plans have not been adopted but where water, electrical facilities and roads exist within or adjacent to a planned subdivision area, the criteria of § 18401 will be applicable. In unplanned areas where water service, electric service or public roads

are not immediately available, the government shall not supply any utility or road extension to make the site suitable for development. [Enacted 1952; repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18403. Time allowed for completion of improvements. Upon approval of the tentative subdivision plan by the Commission, the subdivider shall complete within one (1) year all of the improvements required, except that the Commission, for good cause shown, may authorize an extension of time, not to exceed twelve (12) months, for such completion. Within such time, the subdivider must either:

(a) Complete the required improvements and, upon acceptance thereof by the government, file his final plans; or

(b) Furnish bond acceptable to the Commission for the completion of improvements, the bond to be in penal sum of one hundred fifteen per cent (115%) of total work costs as verified by the Director of Public Works. On approval of the bond, the final plans may be filed. [Added by P.L. 6-134, effective December 18, 1962.]

CHAPTER VI Variances and Appeals

- § 18500. Petition for variances.
- § 18501. Variance subdivisions.
- § 18502. Unit development.
- § 18503. Judicial review.

§ 18500. Petition for variances. The Commission, on its own initiative, or upon the petition of any subdivider stating fully the grounds of the application and all the facts relied upon by the subdivider, may grant variances to the regulations of the Commission. Such petition shall be filed with the tentative plan of the subdivision. In the event the Commission shall find the following facts with respect to the petition for a variance, it may grant a variance under such terms and conditions as it may prescribe:

(a) That there are special circumstances or conditions affecting said property.

(b) That the variance is necessary for the preservation and enjoyment of a substantial property right of the subdivider.

(c) That the granting of the variance will not be materially detrimental to the public welfare or injurious to other property in the area in which said property is situated.

(d) That the variance, if granted, will conform with the intent and purpose of the general or precise plan for the territory, and of this Title. [Enacted 1952, repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18501. Variance subdivisions. The Commission shall have the authority to review any prior division of parcels of land, whether for the purpose of lot parcelling or the establishment of a subdivision, presented to the Department of Land Management for recording as a subdivision under the provisions of this Title. The Commission may require the subdivider or owner to modify the arrangement, to improve access rights of way and easements, or to modify

the size and shapes of lots and other improvements as a condition precedent to record the presentation as a subdivision. The decision of the Commission shall be final. [Added by P.L. 6-134, effective December 18, 1962.]

§ 18502. Unit development. The standards and requirements of this Title may be modified by the Commission in the case of a plan and program for a new town, a complete community, or a neighborhood unit, which in the judgment of the Commission provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provide such deed restrictions or other legal provisions as will assure conformity to and achievement of the plan. [Added by P.L. 6-134, effective December 18, 1962.]

§ 18503. Judicial review.

(a) Any order of the Commission shall become effective when notice thereof is delivered to the party or parties affected and, unless proceedings for judicial review are instituted as provided for in Subsection (b) of this section, shall become final at the expiration of thirty (30) days thereafter.

(b) If the decision of the Commission is not in accordance with law or is not supported by substantial evidence, the same may be set aside through an action instituted in the Island Court brought by the party affected thereby. The subdivider shall not subdivide any land, or sell, lease, or offer for sale, any subdivision or proposed subdivision or any part thereof, or any lot, parcel or site therein, or commence or continue construction or any improvement relating thereto during the pendency of such action.

(c) Review by the court shall be limited to the record procured before the Commission and, if the decision of the Commission is not according to law or supported by substantial evidence, the court shall return the matter to the Commission for further action in accordance with the evidence. [Added by P.L. 6-134, effective December 18, 1962.]

CHAPTER VII

Penalties, Amendments, Interpretation and Separability

§ 18600. Violation penalties.

§ 18601. Separability.

§ 18602. Repeal.

§ 18600. Violation penalties.

(a) Any individual agent, partnership, firm, association, corporation or any other legal entity violating any of the provisions of this Title shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00) for each offense. Such individual agent, partnership, firm, association, corporation or other legal entity shall be deemed guilty of an offense for each day or portion thereof in which any violation is committed, continued or permitted, and shall be punishable as herein provided for each such day or portion thereof.

(b) The imposition of any sentence made under this section shall not exempt the offender from compliance with the requirements of this Title. [Repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18601. Separability. If any section, subsection, sentence, clause, phrase or portion of this Title is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Title. The Legislature hereby declares that it would have passed and does hereby pass this Title and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, phrases, or portions thereof, be declared invalid. [Repealed and added by P.L. 6-134, effective December 18, 1962.]

§ 18602. Repeal. All Acts or parts of Acts which are inconsistent with the provisions of this Title are hereby repealed to the extent of such inconsistency. [Original Chapter 7, consisting of §§ 18600-18606, as added by P.L. 5-142, effective September 8, 1960, repealed by P.L. 6-134, effective December 18, 1962.]

Public Law 13-69
Thirteenth Guam Legislature
(Bill 48)

AN ACT

An Act to add a new subparagraph (h) to Section 18005 of the Government Code of Guam relative to requiring the developer of a subdivision to provide adequate public access to recreational lands.

Be it enacted by the People of the Territory of Guam:

Section 1. Statement of Legislative Finding. The Legislature finds there is a great need for the establishment and preservation of public access to many areas in the territory. There are miles of coastal shorelines and waters under the jurisdiction of the territory which are inaccessible to the public due to the absence of public rights-of-way; the absence of public rights-of-way is a contributing factor to acts of hostility against private shoreline properties; the population of the island is increasing while the now accessible beach and shoreline areas remain fixed; and the absence of public access to Guam's coastal shoreline constitutes an infringement upon the fundamental right of free movement in public space and of access to and use of the sea. The Legislature further finds that urbanization also may prevent or impede public access to hill and jungle lands which have areas for hiking, hunting, fruit-picking and other recreational purposes.

Section 2. Section 18005 of the Government Code of Guam is amended by the addition of a new Subparagraph (h) to read as follows:

"(h) In cases where public access is not already provided, dedicate land for public access by right-of-way for pedestrian travel from a public highway or public street to abutting lands below the high-water mark on any coastal shoreline, and to dedicate land for public access by right-of-way from a public highway or public street to abutting public lands in the hills and jungle so such lands shall be accessible for hiking, hunting, fruit picking and other recreational purposes.

The right-of way shall be clearly designated on the final map of the subdivision or development upon the dedication of land for a right-of-way as required by this Subparagraph and acceptance by the territory, the territory shall thereafter assume the cost of improvements for and the maintenance of the right-of-way, and the subdivider shall accordingly be relieved from such costs."

Section 3 This Act shall have immediate effect and shall apply to the plan of any subdivision or development which has not been approved prior to the date it shall take effect.

Approved October 22, 1975.

CHAPTER V-A

Guam Territorial Seashore Protection
Act of 1974

- § 13410. Short title
- § 13411. Findings
- § 13412. Definitions
- § 13413. Commission creation, membership and compensation
- § 13414. Conflict of interest
- § 13415. Powers and duties
- § 13416. Commission and responsibilities
- § 13417. Interim permit control
- § 13418. Penalties
- § 13419. Severability
- § 13420. Authorization for appropriation

§ 13410. This Chapter may be cited as the Guam Territorial Seashore Protection Act of 1974.

§ 13411. The people of the territory of Guam hereby find and declare that the Guam Territorial Seashore Reserve is a distinct and valuable natural resource belonging to all the people of Guam and existing as a delicately balanced ecosystem; that the permanent protection of the natural, scenic, and historical resources of the seashore reserve is a paramount concern to the present and future residents of this island; that in order to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marinelife, and other ocean resources, and the natural environment, it is necessary to preserve the ecological balance of the seashore reserve and prevent its deterioration and destruction; that it is the policy of this territory to preserve and protect the resources of the seashore reserve for the enjoyment of the current and succeeding generations, and that to protect the seashore reserve, it is necessary:

(a) To study the seashore reserve to determine the ecological planning principles and assumptions needed to ensure conservation of its resources;

(b) To prepare, based upon such study and in full consultation with all affected governmental agencies and departments, private interests and the general public, a comprehensive, coordinated, enforceable plan for the orderly, long-range conservation, management and development of the seashore reserve;

(c) To ensure that any development which occurs in the seashore reserve during the study and planning period will be consistent with the objectives of this Chapter;

(d) That the Board of Directors, Territorial Seashore Protection Commission, is hereby charged with the responsibility of implementing the provisions of this Chapter.

§ 13412. Definitions. (a) 'Commission' means Guam Territorial Seashore Protection Commission.

(b) 'Board' means the Board of Directors of the Commission.

(c) 'Seashore reserve' means that land and water area of the territory of Guam extending seaward to the ten fathom contour, including all islands within the territory's jurisdiction, and extending inland from the mean high water line for a distance on a horizontal plane of one hundred meters. (Amended by P.L. 12-209, effective January 16, 1976.)

(d) 'Development' means, on land, in or under water, the placement or erection of any solid material or structure; discharge of disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision of land and any other division of land including lot split; change in the intensity of use of water, ecology related thereto, or of access thereto; construction or reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility, and the removal of major vegetation.

(e) 'Improved residential property' means a detached, noncommercial residential dwelling, the construction of which was begun before September 1, 1972, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Commission shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(f) 'Person' includes any individual, organization, partnership, and corporation, including any utility and any agency of federal, territorial, and local government.

(g) 'Plan' means the Guam Seashore Reserve Plan.

(h) 'Sea' means the Pacific Ocean or the Philippine Sea.

§ 13413. Commission creation, membership and compensation. (a) The Commission is hereby created and shall consist of seven (7) members to be appointed by the Governor with the advice and consent of the Legislature.

(b) Commission members will be appointed within sixty (60) days after the enactment of this Chapter. Members shall hold office for a term of two (2) years, and may be reappointed for one (1) additional term.

(c) Commission members shall serve without compensation except that each member shall be paid a per diem of Fifty Dollars (\$50) for each day's attendance at a meeting of the Commission. Each member shall also be allowed actual expenses incurred in the discharge of his duties.

§ 13414. Conflict of interest. (a) No member of the Commission or employee of the Commission shall participate, in any official capacity whatsoever, in any proceeding, hearing, application, request for ruling or other official determination, judicial or otherwise, in which any of the following has a financial interest: the member or employee himself; his spouse; his child; his partner; any organization in which he is then serving or has, within two (2) years prior to his selection or appointment

to or employment by the Commission, served in the capacity of officer, director, trustee, partner, employer or employee; any organization within which he is negotiating for or has any arrangement or understanding concerning prospective partnership or employment.

(b) In any case within the coverage of this section, the prohibitions herein contained shall not apply if the person concerned advises the Board in advance of the nature and circumstances thereof, including full public disclosure of the facts which may potentially give rise to a violation of this article, and obtains from the Board a written determination that the contemplated action will not adversely affect the integrity of the Commission. Any such determination shall require the affirmative vote of two-thirds of the members of the Board.

(c) Any person who violates any provision of this section shall, upon conviction, and for each such offense, be subject to a fine or not more than Ten Thousand Dollars (\$10,000) or imprisonment for not more than two (2) years, or both.

§ 13415. Powers and duties. The Board may:

(a) Accept grants, contributions, and appropriations;

(b) Employ and fix the compensation, in accordance with law, of such professional, clerical and other assistants as may be necessary;

(c) (1) Through coordination and assistance with other government departments and agencies, acquire lands, waters, and interests therein with the boundaries of the seashore reserve, by donation, purchase with donated or appropriated funds, by exchange for government land, or transfer. All property owned by the territory of Guam within the seashore reserve is hereby dedicated for the purpose of this Chapter.

(2) With respect to improved residential property acquired for the purposes of this Chapter, which is beneficially owned by a natural person and which the Board determines can be continued in that use for a limited period of time without undue interference with the administration, development, or public use of the coastal reserve, the owner thereof may on the date of its acquisition by the Commission retain a right of use and occupancy of the property for noncommercial residential purposes for a term, as the owner may elect, ending either (a) at the death of the owner or his spouse, whichever occurs later, or (b) not more than twenty-five (25) years from the date of acquisition. Any right so retained may during its existence be transferred or assigned. The Commission shall have paid to such owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained by the owner.

(3) The Board may terminate a right of use and occupancy retained pursuant to this subsection upon a determination that such use and occupancy is being exercised in a manner not consistent with the purposes of this Chapter, and upon tender to the holder of the right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination;

(d) Contract for any professional services if such work or service

cannot satisfactorily be performed by its employees;

(e) Be sued and sue to obtain any remedy to restrain violations of this Chapter. Upon the request of the Commission, the Attorney General shall provide necessary legal representation;

(f) Adopt any regulations or take any action it deems reasonable and necessary to carry out the provisions of this Chapter, but no regulations shall be adopted without a prior public hearing.

§ 13418. Commission responsibilities. The Commission shall:

(a) Elect a chairman.

(b) Appoint an Administrator who shall not be a member of the Commission and who shall have the responsibility for the administration of this Act under the supervision of the Commission.

(c) Prepare, adopt and submit to the Legislature for implementation the Guam Seashore Reserve Plan.

(1) The plan shall be based on detailed studies of all the factors that significantly affect the seashore reserve.

(2) The plan shall be consistent with all of the following objectives:

(a) The maintenance, restoration, and enhancement of the overall quality of the seashore reserve environment, including, but not limited to, its amenities and aesthetic values.

(b) The continued existence of optimum populations of all species of living organism.

(c) The orderly, balanced utilization and preservation, consistent with sound conservation principles, of all living and non-living seashore reserve resources.

(d) Avoidance of irreversible and irretrievable commitments of seashore reserve resources.

(e) Public access for maximum visual and physical use and enjoyment of the seashore reserve by the public.

(3) The plan shall consist of such maps, text and statements of policies and objectives as the Commission determines are necessary.

(4) The plan shall contain at least the following specific components:

(a) A precise, comprehensive definition of the public interest in the seashore reserve.

(b) Ecological planning principles and assumptions to be used in determining the suitability and extent of allowable development.

(c) A component which includes the following elements:

(1) A land-use element.

(2) A conservation plan for the preservation and management of the scenic and other natural resources of the seashore reserve.

(3) A public access for maximum visual and physical use and enjoyment of the coastal reserve by the public.

(4) A recreation element.

(5) A population element for the establishment of maximum desirable population densities.

(6) An educational or scientific use element.

(d) Reservations of land or water in the seashore reserve for

certain uses, or the prohibition of certain uses in specific areas.

(e) Recommendations for the governmental policies and powers required to implement the planning including the organization and authority of the governmental agency or agencies which should assume permanent responsibility for its implementation.

(d) Publish objectives, guidelines, and criteria for the collection of data, the conduct of studies, and the preparation of recommendations for the plan within six (6) months after its first meeting.

(e) Prepare its definitive conclusions and recommendations, including recommendations for areas that should be reserved for specific uses or within which specific uses should be prohibited, which it shall, after public hearing, adopt and submit to the Legislature no later than January, 1976.

(f) On or before December 1, 1975, adopt the coastal reserve plan and submit it to the Legislature for its adoption and implementation.

(Amended by P.L. 12-210, effective January 23, 1975.)

§ 13417. Interim permit control

(a) General provisions.

(1) On or after June 1, 1974 any person wishing to perform any development within the seashore reserve shall obtain a permit authorizing such development from the Commission, and, if required by law, from any other governmental department or agency. No permit shall be issued without the affirmative vote of a majority of the Board members. (Amended by P.L. 12-210, effective January 23, 1975.)

EDITOR'S NOTE: P.L. 12-210 purported to amend § 13416(F)(1) as regards the date for seeking a construction permit from the Commission. Legislative intent being clear, the Editor has reflected the Amendment in § 13417(a)(1) accordingly.]

(2) No permit shall be issued unless the Board has first found:

(a) That the development will not have any substantial adverse environmental or ecological effect, and

(b) That the development is consistent with the purpose and objectives of this Chapter.

The applicant shall have the burden of proof on all issues.

(3) All permits shall be subject to reasonable terms and conditions in order to ensure that:

(a) Access to beaches, recreation and historical areas, and natural reserves is increased to the maximum extent possible by appropriate dedication.

(b) There is no substantial interference with or detracton from the line of sight toward the sea from the territorial highway nearest the coast.

(c) Adequate and properly located public recreation areas and wildlife preserves are reserved.

(d) Provisions are made for solid and liquid waste treatment, disposition, and management which will minimize adverse effects upon coastal reserve resources.

(e) Alterations to existing land forms and vegetation, and con-

struction of structures shall cause minimum danger of floods, landslides, erosion or siltation.

(4) If prior to the effective date of this Chapter, a building permit has been issued, no person who has obtained a vested right thereunder shall be required to secure a permit under this section, provided that no substantial changes may be made in any such development, except in accordance with the provisions of this Chapter. Any such person shall be deemed to have such vested rights if, prior to April 1, 1973 he has in good faith and in reliance upon the building permit diligently commenced construction and performed substantial work and materials necessary thereof.

(6) Notwithstanding any provision in this section to the contrary, no permit shall be required for the following types of development:

(a) Repairs and improvements not in excess of Seven Thousand Five Hundred Dollars (\$7,500) to existing single-family residences; provided that the Agency shall specify by regulation those classes of development which involve a risk of adverse environmental effect and may require that a permit be obtained.

(b) Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the coastal reserve, pursuant to a permit from the United States Army Corps of Engineers.

(b) Permit procedure.

(1) The Board shall prescribe the procedures for permit applications and may require a reasonable filing fee and the reimbursement of expenses.

(2) The Board shall give written public hearing. Such hearing shall be set no less than twenty-one (21) nor more than ninety (90) days after the date on which the application is filed.

(3) The Board shall act upon an application for permit within sixty (60) days after the conclusion of the hearing.

(4) Any person including an applicant for a permit, aggrieved by the decision or action of the Board shall have a right to judicial review of such decision or action by filing a petition for a writ of mandamus, pursuant to § 1084 et. seq. of Civil Procedure Code of Guam within sixty (60) days after such decision is made.

(5) Any person may maintain an action for declaratory and equitable relief to restrain violations of this Chapter. No bond shall be required for an action under this subsection.

(6) Any person may maintain an action for the recovery of civil penalties provided in § 13418.

(7) The provision of this Section shall be in addition to any other remedies available at law.

(8) Any person who prevails in a civil action brought to enjoin a violation of this Chapter or to recover civil penalties shall be awarded his costs, including reasonable attorneys fees.

§ 13418. Penalties. (a) Any person who violates any provisions of this Chapter shall be subject to a civil fine not to exceed Ten Thousand

Dollars (\$10,000).

(b) In addition to any other penalties, any person who performs any development in violation of this Chapter shall be subject to a civil fine not to exceed Five Hundred Dollars (\$500) per day for each day in which such violation persists.

§ 13418. Severability. If any provision of this Chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

§ 13420. Authorization for appropriation. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Chapter. [Chapter V-A, §§ 13410-13420, added by P.L. 12-108, effective March 11, 1974.]

Public Law 13-52
Thirteenth Guam Legislature
(Bill 413)

AN ACT

An Act to repeal and reenact Section 13413 of the Government Code of Guam (P.L. 12-108) relative to the composition of the Guam Territorial Seashore Protection Commission.

Be it enacted by the People of the Territory of Guam:

Section 1. Section 13413 of the Government Code of Guam (P.L. 12-108) is hereby repealed and a new Section 13413 is hereby enacted to read as follows:

"Section 13413. Commission Creation, Membership and Compensation. (a) There is hereby created a Guam Territorial Seashore Protection Commission (hereinafter referred to as the 'Commission'), consisting of the seven members of the Territorial Planning Commission and the members shall hold office so long as they remain members of the Territorial Planning Commission.

(b) Commission members shall serve without compensation except that each member shall be paid a per diem of Twenty-Five Dollars (\$25.00) for each days' attendance at a meeting of the Commission. Each member shall be allowed actual expenses incurred in the discharge of his duties."

Approved July 15, 1975.

Public Law 13-154
Thirteenth Guam Legislature
(Bill 839)

AN ACT

An Act to add a new Subsection (g) to Section 31003 and to repeal and reenact Subparagraph (c) of Section 13412 of the Government Code relative to emergency repairs of buildings.

Statement of Legislative Findings: The Legislature finds that Typhoon Pamela has destroyed or damaged hundreds of buildings within the Territory of Guam. While governmental regulation of construction by means of building permits is normally a desirable function of government, the Legislature finds that in this typhoon-caused emergency, the speedy repair of buildings outweighs any possible disadvantage in the temporary suspension of construction regulations.

Be it enacted by the People of the Territory of Guam:

Section 1. A new Subsection (g) is added to Section 31003 of the Government Code to read:

"(g) If at any time Guam or any part of it shall be declared a disaster area by the President of the United States, no person shall be required to make application or give notice to the Building Official in order to make such repairs as may be necessary to restore a dwelling immediately prior to the incident which resulted in the disaster declaration and, provided further, such dwelling was made uninhabitable as a result of the incident which resulted in a disaster declaration. This subparagraph shall not preclude the government from exercising its police power to condemn or require vacation of any structure when it is determined that the continued occupancy or use of such a structure poses a threat to the public health, safety or welfare. The authority given by this subparagraph to make emergency repairs in the event of a declaration of disaster shall be valid only for a period of ninety (90) days subsequent to the issuance of the declaration of disaster by the President of the United States."

Section 2. Subparagraph (c) of Section 13412 of the Government Code is repealed and reenacted to read:

"(c) 'Seashore Reserve' means that land and water area of Guam extending seaward to the ten fathom contour, including all islands within the Government's jurisdiction except Cabras Island and those Villages wherein residences have been constructed along the shoreline prior to the effective date of the Seashore Act, and extending inland to the nearer of the following points:

- (1) From the mean high water line for a distance on a horizontal plane of ten (10) meters.
- (2) From the mean high water line to the inland edge of the nearest public right-of-way."

Section 3. Section 1 of this Act shall be retroactively effective to the date of issuance of the declaration of Guam as a typhoon disaster area by the President of the United States.

Overridden

July 7, 1976.



GOVERNMENT OF GUAM
OFFICE OF THE GOVERNOR
AGANA, GUAM

EXECUTIVE ORDER NO. 75-2 REPEALED 74-23

THE GOVERNMENT OF GUAM SUBDIVISION
AND DEVELOPMENT REVIEW COMMITTEE;
REPEAL OF EXECUTIVE ORDER NO. 74-23

WHEREAS, the Government Code of Guam provides for the review of proposed subdivisions by various agencies of government in Sections 18002 and 18003 thereof; and

WHEREAS, it is desirable to coordinate the review function; and

WHEREAS, certain changes to Executive Order No. 74-23 have been found to be necessary;

NOW, THEREFORE, by virtue of the authority vested in me by the Organic Act of Guam, it is ordered that Executive Order No. 74-23 is hereby rescinded and replaced by this Executive Order which hereby creates the Government of Guam Subdivision and Development Review Committee with the following powers and duties:

1. a. To prepare integrated written review comments and suggestions for consideration by the Territorial Planning Commission and the applicant regarding all subdivisions (including parental); all proposed zone changes; and, all proposed zone variances comprising more than a ten percent variance from requirements of existing zoning laws.
- b. Establish rules and regulations to carry out the function of review, including establishing meeting dates and procedures.

2. This Committee will be composed of the following governmental agencies:

a. The Territorial Planner, Department of Land Management, who shall be chairman.

b. The Building Official to represent the Building Permit Section, Department of Public Works.

c. The Chief of Engineering to represent all other sections of the Department of Public Works.

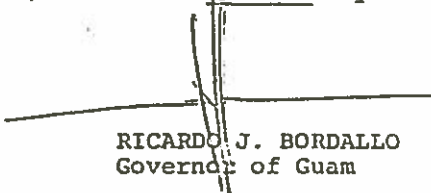
d. One member of the Guam Environmental Protection Agency.

e. One member of the Territorial Planning Commission staff.

f. One member from the Parks Division, Department of Commerce.

g. One member from the Public Utility Agency of Guam.

3. This Executive Order shall be effective this date.
Dated at Agana, Guam this 12th day of January, 1975.


RICARDO J. BORDALLO
Governor of Guam

COUNTERSIGNED:


RUDOLPH G. SABLON
Lieutenant Governor

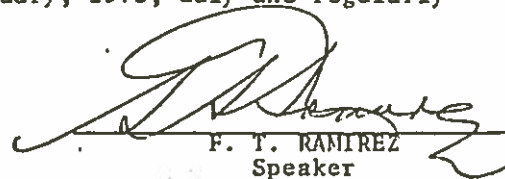
§ 13251. Guam Natural Resources Board. The Territorial Planning Commission shall serve ex-officio as the Guam Natural Resources Board. It shall be the function of the Board to study and evaluate any plans or proposals for the utilization of government land for natural resource development or exploitation. [Added by P.L. 10-116, effective March 14, 1970.]

§ 13252. Minerals; mining. All proposals for the use, lease or purchase of government land for the purpose of commercial mining or removing therefrom any minerals, rocks or sand for processing shall be presented to the Guam Natural Resources Board. The Board shall determine if the proposal is consonant with the public interest and in keeping with proper conservation practices. The Board may recommend any such use, lease or sale of government land to the Governor including any such conditions that may be necessary such as bonds for compliance with the proposals presented. [Added by P.L. 10-116, effective March 14, 1970.]

§ 13253. Rules and regulations. It shall be the duty of the Guam Natural Resources Board to formulate such rules, regulations and procedures as are necessary to effectuate the aims and intents of this Act and no government land shall be leased or sold for the purpose of commercial mining or removing therefrom any minerals, rocks or sand for processing until the rules, regulations and procedures herewith authorized shall have been adopted and promulgated pursuant to the provisions of the Administrative Adjudication Act, and provided, further, that such regulations and procedures shall include, among other provisions, the following: (1) a public hearing on the proposed lease or sale of government land must be conducted by the Board; (2) a notice for said hearing shall be published in a newspaper of general circulation at least ten (10) days before the day set for the hearing; and (3) the notice for hearing shall contain a summary description of the proposed mining operations. [Added by P.L. 10-116, effective March 14, 1970.]

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 715, "An Act to repeal Chapters VI, VII, VIII, and XI of Title XIV of the Government Code of Guam and to reenact Chapter VI of said Code relative to establishing the Chamorro Land Trust Commission", was on the 8th day of January, 1975, duly and regularly passed.


F. T. RAMIREZ
Speaker

ATTESTED:


G. M. BAMBA
Legislative Secretary

This Act was received by the Governor this 13th day of January, 1975 at 9:15 o'clock A. M.

/s/ RICHARD D. MAGEE
RICHARD D. MAGEE, Acting
Attorney General of Guam

APPROVED:

/s/ RICARDO J. BORDALLO
RICARDO J. BORDALLO
Governor of Guam

DATED: FEB 4 1975
6:36 P.M.
P.L. - 12-226

Bill No. 715

Introduced by P. J. Bordallo

AN ACT TO REPEAL CHAPTERS VI, VII, VIII, AND XI OF TITLE XIV OF THE GOVERNMENT CODE OF GUAM AND TO REENACT CHAPTER VI OF SAID CODE RELATIVE TO ESTABLISHING THE CHAMORRO LAND TRUST COMMISSION.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Chapters VI, VII, VIII, and XI of Title XIV of the Government Code of Guam are hereby repealed in their entireties.

Section 2. A new Chapter VI to Title XIV of the Government Code of Guam is hereby enacted to read as follows:

"CHAPTER VI

CHAMORRO LAND TRUST COMMISSION

Section 13500. Definitions. When used in this title:

(a) The term 'Commission' means the Chamorro Land Trust Commission.

(b) The term 'territory' means the territory of Guam.

(c) The term 'Chamorro homelands' means all lands given the status of Chamorro homelands under the provisions of Section 13504 of this Chapter.

(d) The term 'native Chamorro' means any person who the Commission determines to be of at least one-fourth part of the blood of any person who inhabited the island prior to 1898.

(e) The term 'department' means the Department of Land Management.

Section 13501. Commission: composition, chairman, compensation. (a) There is within the government of Guam the Chamorro Land Trust Commission. The Commission shall be composed of five (5) members to be appointed

by the Governor with the confirmation of the Legislature. Failure by the Legislature to confirm the appointment of a Commission member within five (5) legislative days after its receipt shall be deemed confirmation. Commission members shall be appointed within sixty (60) days after the enactment of this Chapter. All members shall have been residents of the territory at least three (3) years prior to their appointment and at least three (3) of the members shall be native Chamorro. Members shall serve terms of three (3) years, provided, however, that of the members first appointed, one (1) shall be appointed for a term of one (1) year and two (2) shall be appointed for terms of two (2) years. The members of the Commission shall serve without pay, but shall receive reimbursement for actual expenses incurred by them in the discharge of their duties as such members. The Governor shall appoint the chairman of the Commission from among the members thereof. The Commission shall have its first meeting within twenty (20) days after confirmation of its members.

(b) The Commission may employ such clerical and other assistants who shall be classified employees as may be necessary to effectively execute its responsibilities. In addition, the Commission shall employ and fix the compensation for an Administrative Director who shall serve in a full-time capacity and who shall exercise such powers and authority as may be delegated to him by the Commission. The director shall be a native Chamorro. Furthermore, the Commission may employ and fix the salary of professional consultants.

Section 13502. Administration. (a) The Commission shall adopt rules, regulations, and policies in accordance

with Chapter III, Title XXV, Government Code of Guam. The Commission may accept grants, contributions, and appropriations and may make such expenditures, loans and other disbursements as are authorized by this Chapter. These disbursements shall be allowed and paid out in accordance with the direction of the Commission upon presentation to the Administrative Director of itemized vouchers therefor signed by the Commission certifying officer in accordance with Public Law 12-34. The Administrative Director shall give bond in the sum of Five Hundred Thousand Dollars (\$500,000) for the faithful performance of his duties. These funds created by Section 13511 of this Chapter shall be maintained separate and apart from any other government fund and shall be in the custody of the Commission certifying officer. The Commission shall make an annual finance and progress report to the Legislature upon the first date of each regular session thereof and such special reports as the Legislature may from time to time require.

(b) When land originally leased by the Commission is, in turn, subleased by the Commission's lessee or sublessee, the Commission shall submit, within ten (10) days of the convening of any regular session, a written report to the Legislature which shall cover the sublease transactions occurring in the calendar year prior to the regular session and shall contain the names of the persons involved in the transaction, the size of the area under lease, the purpose of the lease, the land classification of the area under lease, the lease rental, the reason for approval of the sublease by the Commission, and the estimated net economic result accruing to the Commission

lessee, and sublessee.

(c) The Commission shall have the power and authority to invest and re-invest any of the money in any of its funds, not otherwise immediately needed for the purposes of the funds in such bonds and securities authorized in Chapter III, Title V of this Code. Any interest or other earnings arising out of such investment shall be credited to and deposited in the Chamorro Home Loan Fund.

(d) The Commission is authorized to carry on any activities it deems necessary to assist lessees in obtaining maximum utilization of leased lands, including taking any steps necessary to develop these lands for their highest and best use commensurate with the purposes for which the land is being leased as provided for in Section 13506, and assisting lessees in all phases of farming and ranching operations and the marketing of their agricultural produce and livestock. In these efforts the Commission shall coordinate its efforts with the Department of Agriculture.

(e) The Commission, may designate and plan subdivisions in accordance with the provisions of Title XIX, Government Code of Guam, on available lands, in, adjacent to, or near any village. Subdivision lots shall be leased in accordance with Section 13506.

Section 13503. Certain government lands designated 'available lands'. (a) All government lands excluding (1) lands held under agricultural lease, land use permit, or right of purchase lease, (2) all lands dedicated to a specific public use by law, and (3) all lands reserved in accordance with Section 13004 of this Code which reservations are submitted to and concurred in by the

Legislature within ninety (90) days of the enactment of this Chapter, are hereby designated as available lands.

(b) Any land acquired by the government by whatever means after the effective date of this Chapter shall acquire the status of available lands unless reserved in accordance with Section 13004 of this Code within sixty (60) days after its acquisition.

Section 13504. Control by Commission of available lands; return to Department. Upon and after the enactment of this Chapter, all available lands shall immediately assume the status of Chamorro homelands and shall be under the control of the Commission to be used and disposed of in accordance with the provisions of this Chapter, except that:

(a) In case any government land is under lease, permit or agreement at the enactment of this Chapter, such land shall not assume the status of Chamorro homelands until the lease, permit or agreement expires or the lands are withdrawn from the operation of the lease, permit or agreement. If the land is covered by a lease, permit or agreement containing a withdrawal clause, the department shall withdraw such lands from the operation of the lease permit or agreement whenever the Commission gives notice to it that the lands are required by it for the purposes of this Chapter.

(b) Any available land as may not be immediately needed for the purposes of this Chapter, may be returned to the department for management. Any Chamorro homelands so returned may be disposed of under a general lease only. Each such lease, whether or not stipulated therein, shall be deemed made subject to the right and duty of the

1 department to terminate the lease and return the lands to
2 the Commission whenever the Commission gives notice that
3 the lands are required by it for the purposes of this
4 Chapter. However, no lease shall be made for a term
5 to exceed twenty-five (25) years. All income arising
6 out of any lease or license entered into under this
7 subsection shall be credited to and deposited in the
8 Chamorro Home Loan Fund.

9 (c) The department may sell to any contiguous land-
10 owner any fractional lot placed under its management which
11 was created by the adoption of the standard block system.

12 (d) In the management of any retained available lands
13 not required for leasing under Section 13506, the
14 Commission may lease or license such lands to the
15 general public. Any lease or license made under this
16 subsection shall comply with the conditions of
17 subsection (b) above.

18 (e) The Commission may, in order to consolidate its
19 holdings or to better effectuate the purposes of this
20 Chapter, exchange the title to available lands for land
21 of an equal value. All lands so acquired by the Commission
22 shall assume the status of available lands as though the
23 same were originally designated as such under Section 13503.

24 (f) The Commission shall not lease or license any
25 available land until it is registered under the provisions
26 of Section 1157 et seq. of the Civil Code (Land Title
27 Registration Act).

28 Section 13505. Other officers not to control Chamorro
29 homelands; exception. The powers and duties of the
30 Governor and the department with respect to lands of the
31 territory shall not extend to lands having the status of

1 Chamorro homelands except as specifically provided
2 for in this Chapter.

3 Section 13506. Leases to Chamorro, licenses. (a) The
4 Commission is authorized to lease to native Chamorros the
5 right to the use and occupancy of a tract or tracts of
6 Chamorro homelands within the following acreage limits
7 per each lessee: (1) not less than one or more than
8 twenty (20) acres for agricultural use; or (2) not less
9 than one nor more than fifty (50) acres for grazing use,
10 and (3) not more than one (1) acre or any class of land
11 to be used as a residence lot.

12 (b) The title to lands so leased shall remain in the
13 territory. Applications for tracts shall be made to and
14 granted by the Commission under such regulations, not in
15 conflict with any provision of this Chapter, as the
16 Commission may prescribe. The Commission shall, whenever
17 tracts are available, enter into such a lease with any
18 applicant who, in the opinion of the Commission, is
19 qualified to perform the conditions of such lease.

20 (c) The Commission is authorized to grant licenses
21 for terms of not to exceed twenty-one (21) years in each
22 case, to public utility companies, or corporations as
23 easements for telephone lines, electric power and light
24 lines, gas mains, and the like. The Commission is also
25 authorized to grant licenses for lots within a village in
26 which lands are leased under the provisions of this
27 section, to:

28 (1) churches, hospitals, public schools,
29 post offices, and other improvements for public
30 purposes;

31 (2) theaters, garages, service stations,

1 markets, stores, and other mercantile establish-
2 ments (all of which shall be owned by lessees of
3 the Commission or by organizations formed and
4 controlled by said lessees).

5 (d) Upon direction by resolution from the Legislature,
6 the Commission shall release to the department any un-
7 leased available land designated for a public purpose.
8 Such land will no longer be considered to be Chamorro
9 homelands.

10 Section 13507. Conditions in leases. Each lease made
11 under the authority granted the Commission by the provi-
12 sions of Section 13506 of this Chapter, and the tract in
13 respect to which the lease is made, shall be deemed sub-
14 ject to the following conditions, whether or not stipulated
15 in the lease.

16 (a) The original lessee shall be a native Chamorro,
17 not less than eighteen (18) years of age. In case two
18 lessees either original or in succession marry, they
19 shall choose the lease to be retained, and the remaining
20 lease shall be transferred or cancelled in accordance
21 with the provisions of succeeding sections.

22 (b) The lessee shall pay a rental of One Dollar (\$1.00)
23 a year for the tract and the lease shall be for a term of
24 ninety-nine (99) years.

25 (c) The lessee shall occupy and commence to use or
26 cultivate the tract as his home or farm within one (1)
27 year after the lease is made. The lessee of agricultural
28 lands shall plant and maintain not less than five, ten,
29 fifteen and twenty trees per acre of land leased and the
30 lessee of grazing lands shall plant and maintain not less
31 than two, three, four, and five trees per acre of land

1 leased during the first, second, third and fourth
2 years, respectively, after the date of the lease. Such
3 trees shall be of types approved by the Department of
4 Agriculture and at locations specified by the Department
5 of Agriculture's agent. Such planting and maintenance
6 shall be by or under the immediate control and direction
7 of the lessee. Such trees shall be furnished by the
8 Department of Agriculture free of charge.

9 (d) The lessee shall thereafter, for at least such
10 part of each year as the Commission shall by regulation
11 prescribe, so occupy and use or cultivate the tract on
12 his own behalf.

13 (e) The lessee shall not in any manner transfer to,
14 or mortgage, pledge, or otherwise hold for the benefit of,
15 any other person or group of persons or organizations of
16 any kind, except a native Chamorro or Chamorros; and then
17 only upon the approval of the Commission, or agree so to
18 transfer, mortgage, pledge, or otherwise hold, his
19 interest in the tract. Such interest shall not, except
20 in pursuance of such a transfer, mortgage, or pledge to
21 or holding for or agreement with a native Chamorro or
22 Chamorros approved of by the Commission or for any indebted-
23 ness due the Commission or for taxes, or for any other
24 indebtedness the payment of which has been assured by the
25 Commission, including loans from governmental agencies
26 where such loans have been approved by the Commission,
27 be subject to attachment, levy, or sale upon court
28 process. The lessee shall not sublet his interest in
29 the tract or improvements thereon.

30 (f) The lessee shall pay all taxes assessed upon
31 the tract and improvements thereon. The Commission may

1 in its discretion pay such taxes and have a lien there-
2 for as provided by Section 13513 of this Act.

3 (g) The lessee shall perform such other conditions,
4 not in conflict with any provision of this Chapter, as
5 the Commission may stipulate in the lease, provided,
6 however, that an original lessee shall be exempt from
7 all taxes for the first seven (7) years from date of
8 lease.

9 (h) The Commission may assure the repayment of loans
10 to lessees from governmental agencies where such loans
11 have been approved by the Commission up to the limits
12 prescribed in Section 13511 provided that the lessee has
13 no indebtedness due the Commission and the Commission
14 shall not make any loans to the lessee while loans from
15 governmental agencies are outstanding; provided further
16 that upon receipt of notice of default in the payment of
17 such loans, the Commission, may upon failure of the
18 lessee to cure the default within sixty (60) days, cancel
19 the lease and thereupon use its best efforts to redispense
20 of the tract to a qualified and responsible native
21 Chamorro or Chamorros as a new lessee who will assume the
22 obligation of the outstanding debt thereby assured, and
23 make payments to the governmental agency from available
24 funds either for the monthly payments as they become due
25 and payable or for the amount of the debt. In no event
26 shall the aggregate amount assured by the Commission
27 exceed Two Million Dollars (\$2,000,000).

28 Section 13508. Successors to lessees. (a) Upon the
29 death of the lessee, his interest in the tract or
30 tracts and the improvements thereon, including growing
31 crops (either on the tract or in any collective contract

1 or program to which the lessee is a party by virtue of
2 his interest in the tract or tracts), shall vest in the
3 relatives of the decedent as provided in this paragraph.
4 From the following relatives of the lessee, husband and
5 wife, children, widows or widowers of the brothers and
6 sisters, or nieces and nephews, -- the lessee shall design-
7 ate the person or persons to whom he directs his interest
8 in the tract or tracts to vest upon his death. Such
9 person or persons must be qualified to be a lessee of
10 Chamorro homelands: provided, that such person or persons
11 need not be eighteen (18) years of age. Such designation
12 must be in writing, must be specified at the time of
13 execution of such lease with a right in such lessee in
14 similar manner to change such beneficiary at any time
15 and shall be filed with the Commission and approval by
16 the Commission in order to be effective to vest such
17 interests in the successor or successors so named.

18 In the absence of such a designation as approved
19 by the Commission, the Commission shall select from the
20 relatives of the lessee in order named above as limited
21 by the foregoing paragraph one or more persons who are
22 qualified to be lessees of Chamorro homelands except
23 as hereinabove provided, as the successor or successors
24 of the lessee's interest in the tract or tracts, and
25 upon the death of the lessee, his interest shall vest
26 in the person or persons so selected. The Commission may
27 select such a successor or successors after the death
28 of the lessee, and the rights to the use and occupancy
29 of the tract or tracts may be made effective as of the
30 date of the death of such lessee.

31 In the case of the death of a lessee leaving no such

1 relative qualified to be a lessee of Chamorro homelands,
2 the land subject to the lease shall resume its status
3 as unleased Chamorro homelands and the Commission is
4 authorized to lease such land to a native Chamorro or
5 Chamorros as provided in this Chapter.

6 Upon the death of a lessee leaving no such relative
7 qualified to be a lessee of Chamorro homelands, or the
8 cancellation of a lease by the Commission, or the
9 surrender of a lease by the lessee, the Commission shall
10 appraise the value of all such improvements and growing
11 crops and shall pay to the legal representative of the
12 deceased lessee, or to the previous lessee, as the case
13 may be, the value thereof, less any indebtedness to the
14 Commission, or for taxes, or for any other indebtedness
15 the payment of which has been assured by the Commission,
16 from the deceased lessee or the previous lessee. Such
17 payments shall be made out of the loan fund and shall be
18 considered an advance therefrom reimbursable out of payments
19 made by the successor or successors to the tract involved.
20 Such appraisal shall be made by three appraisers, one of
21 which shall be named by the Commission, one by the pre-
22 vious lessee or the legal representative of the deceased
23 lessee, as the case may be, and the third shall be selected
24 by the two appraisers hereinbefore mentioned.

25 (b) After the cancellation of a lease by the
26 Commission in accordance with the provisions of Section
27 13509 or 13513 of this Title, or the surrender of a
28 lease by a lessee, the Commission is authorized to
29 transfer the lease or to issue a new lease to any
30 qualified Chamorro regardless of whether or not he is
31

1 related in any way by blood or marriage to the
2 previous lessee.

3 (c) Should any successor or successors to a tract be
4 a minor or minors, the Commission may appoint a guardian
5 therefor subject to the approval of the Superior Court.
6 Such guardian shall be authorized to represent the
7 successor or successors in all matters pertaining to the
8 leasehold: provided, that said guardian shall, in so
9 representing such successor or successors, comply with
10 the provisions of this Title and the stipulations and
11 provisions contained in the lease, except that said
12 guardian need not be a native Chamorro as defined in
13 Section 13500 of this Title.

14 Section 13509. Cancellation of leases. Whenever the
15 Commission has reason to believe that any condition
16 enumerated in Section 13507 or any provision of Section
17 13508 of this Chapter has been violated, the Commission
18 shall give due notice and afford opportunity for a hearing
19 to the lessee of the tract in respect to which the alleged
20 violation relates or to the successor of the lessee's
21 interest therein, as the case demands. If upon such hearing
22 the Commission finds that the lessee or successor has
23 violated any condition in respect to the leasing of such
24 tract, the Commission may declare his interest in the
25 tract and all improvements thereon to be forfeited and the
26 lease in respect thereto cancelled, and shall thereupon
27 order the tract to be vacated within a reasonable time.
28 The right to the use and occupancy of the Chamorro home-
29 lands contained in such tract shall thereupon revert in
30 the Commission and the Commission may take possession of
31 the tract and the improvements thereon.

1 Section 13510. Community pastures. The Commission
2 shall, when practicable, provide from the Chamorro homo-
3 lands a community pasture adjacent to each village.

4 Section 13511. Chamorro Home Loan Fund; Chamorro
5 Home Development Fund; Chamorro Educational Fund;
6 Chamorro Commercial Loan Fund; Chamorro Home Repair Loan
7 Fund; and the Chamorro Loan Guarantee Fund. (a) There are
8 hereby established three (3) revolving funds to be known
9 as the Chamorro Home Loan Fund, the Chamorro Commercial
10 Loan Fund and the Chamorro Home Repair Fund and three (3)
11 special funds to be known as the Chamorro Home Development
12 Fund, the Chamorro Educational Assistance Fund, and the
13 Chamorro Loan Guarantee Fund.

14 (b) Chamorro Home Loan Fund. There is hereby authorized
15 to be appropriated from the Unappropriated Surplus of the
16 General Fund the sum of One Million Dollars (\$1,000,000)
17 as initial capital to said Fund. In furtherance of the
18 purposes herein, the Commission may do any one or more of
19 the following with moneys from this Fund and any borrowed
20 moneys under (6) herein below:

21 (1) The Commission may extend the benefits
22 of the Fund only to native Chamorros as defined
23 in this Chapter;

24 (2) The Commission may loan, or guarantee the
25 repayment of or otherwise underwrite any authorized
26 loan, up to a maximum of Twenty-Five Thousand
27 Dollars (\$25,000); provided, that where, upon the
28 death of a lessee living on Chamorro homelands
29 who leaves no relatives qualified to be a lessee
30 of Chamorro homelands, or the cancellation of a
31 lease by the lessee, the Commission shall be

1 authorized to make payment and to permit assumption
2 of loans in excess of Twenty-Five Thousand Dollars
3 (\$25,000) subject to the provisions of Section
4 13512(b);

5 (3) Where the dwelling is on Chamorro home
6 lands, anything in the Chapter to the contrary not-
7 withstanding, either the Commission or other govern-
8 mental agencies may make loans, and the loans made
9 in connection with the repair or maintenance or
10 purchase or erection or improvement of dwellings shall
11 be subject to, all applicable provisions of the
12 Chapter, including but not limited to the provisions
13 of Sections 13506, 13507, 13508, 13509, 13512, 13513,
14 and 13514, and to such legislative amendments of the
15 Chapter herein or thereafter enacted, provided such
16 amendments do not change the qualifications of
17 lessees or constitute a reduction or impairment of
18 the Chamorros Home Loan Fund, or Chamorro Home
19 Development Fund or otherwise required the consent
20 of the United States. Loans made to lessees by
21 governmental agencies shall be approved by the
22 Commission, and the Commission may assure the pay-
23 ment of such loans, provided that the Commission
24 shall reserve the following rights, among others:
25 the right of succession to the lessee's interest
26 and assumption of the contract of loan; right to
27 require that written notice be given to the Commission
28 immediately upon default or delinquency of the
29 lessee; and any other rights necessary to protect
30 the monetary and other interests of the Commission.
31

(4) Where the dwelling is on non-Chamorro home

1 lands, anything in the Chapter to the contrary not-
2 withstanding, either the Commission or financial
3 institutions may make loans, and in connection with
4 such loans, the Commission shall be governed by,
5 and the loans made in connection with the repair or
6 maintenance or purchase or erection or improvement of
7 dwellings shall be subject to, such terms and con-
8 ditions as the Commission may, by rules and regula-
9 tions promulgate, provided, the Commission shall
10 require any loan made or guaranteed or otherwise
11 underwritten to be secured adequately and suitably
12 by a first or second mortgage or other securities;

13 (5) The Commission shall establish interest rate
14 or rates at two and one-half per cent (2-1/2%) a
15 year or higher, in connection with authorized loans
16 on Chamorro homelands or non-Chamorro homelands, and
17 where the going rate of interest on loans made by
18 financial institutions to native Chamorros is higher,
19 pay from the Fund or the moneys borrowed, the
20 difference in interest rates;

21 (6) The Commission may borrow and deposit funds
22 into a special revolving account for the purposes of
23 repairing, maintaining, purchasing, erecting or im-
24 proving dwellings on Chamorro homelands and non-
25 Chamorro homelands and related purposes from
26 financial institutions, governmental, or private;

27 The Commission may purchase or otherwise acquire,
28 or agree so to do, before or after default, any notes
29 and mortgages or other securities, covering loans
30 under this program made by financial institutions,
31 and guarantee the repayment of or otherwise underwrite

1 the loans, and accept the assignment of any notes and
2 mortgages or other securities in connection therewith;

3 (7) The Commission may exercise the functions
4 and reserved rights of a lender of money or mortgagee
5 of residential property in all loans by financial
6 institutions made to Chamorros under this program.
7 The functions and reserved rights shall include but
8 not be limited to, the purchasing, repurchasing,
9 servicing, selling, foreclosing, buying upon fore-
10 closure, guaranteeing the repayment or otherwise
11 underwriting, of any loan, protecting of security
12 interest, and after foreclosure, the repairing, re-
13 novating or modernization and sale of the property
14 covered by the loan and mortgage, to achieve the
15 purposes of this program while protecting the
16 monetary and other interests of the Commission.

17 (c) Chamorro Home Development Fund. Twenty-five
18 per cent (25%) of the amount of moneys covered into the
19 Chamorro Home Loan Fund annually shall be transferred
20 into the Chamorro Home Development Fund. The moneys in
21 said development fund shall be available, with the prior
22 written approval of the Governor for construction of
23 sanitary sewerage facilities for the construction of
24 roads through and over Chamorro homelands, and for
25 other non-revenue producing improvements.

26 (d) Match moneys. The Commission is authorized
27 and empowered to use moneys in the development
28 fund, with the prior written approval of the
29 Governor, to match Federal funds available for

1 the same purposes and to that end is authorized to enter
2 into such undertakings, agree to such conditions, transfer
3 funds therein available for such expenditures and do per-
4 form such other acts and things, as may be necessary or
5 required, as a condition to securing match funds for such
6 projects or works.

7 (e) Chamorro Educational Assistance Fund. Ten per cent
8 (10%) of the amount of moneys covered into the Chamorro
9 Home Loan Fund annually shall be transferred into the
10 Chamorro Educational Assistance Fund. The Department of
11 Education shall establish and direct educational projects
12 after consultation with the University of Guam and the
13 Commission which shall be directed primarily for the
14 educational improvement of the children of lessees, which
15 shall be funded with this Fund with prior written approval
16 of the Governor.

17 (f) Chamorro Commercial Loan Fund. The Commission is
18 authorized to create a Fund out of which loans may be
19 made to those holding leases issued under Section 13506 of
20 this Chapter. The loans shall be for theaters, garages,
21 service stations, markets, stores, and other mercantile
22 establishments and these shall all be owned by lessees or
23 by organizations formed and controlled by said lessees.
24 The amount and duration of loans from this Fund at any one
25 time to any lessee, or successor or successors in interest,
26 shall be determined by the Commission on the basis of the
27 proposed operations of lessee(s) and the security avail-
28 able, provided, that where, upon the death of a lessee
29 leaving no relative qualified to be a lessee of Chamorro
30 homelands, or the cancellation of a lease by the Commission,
31 or the surrender of a lease by the lessee, the Commission

1 shall make the payment provided for by Section 13508(u).
2 The amount of any such payment made to the legal repre-
3 sentative of the deceased lessee, or to the previous
4 lessee, as the case may be, shall be considered as part
5 or all, of any such loan to the successor or successors,
6 without limitations as to any pre-established maximum
7 amount but subject to provisions of Paragraph (b) of
8 Section 13512.

9 (g) Chamorro Home Repair Loan Fund. There is hereby
10 authorized to be appropriated from the Unappropriated
11 Surplus of the General Fund the sum of One Hundred
12 Thousand Dollars (\$100,000) for the Chamorro Home Repair
13 Loan Fund. The moneys in this Fund shall be used to make
14 loans in amounts not in excess of Five Thousand Dollars
15 (\$5,000) to lessees for repairs to their existing homes
16 and for necessary additions to such homes due to increase
17 in family size. Such loans may be made for periods not to
18 exceed five (5) years.

19 (h) The Chamorro Loan Guarantee Fund. The Commission
20 is authorized to create a Fund out of which loans made
21 by governmental agencies or lending institutions to those
22 holding leases or licenses issued under Section 13506
23 of this Chapter may be guaranteed. This guarantee may
24 be for home or commercial loan purposes. The loan
25 guarantees shall be subject to the restrictions imposed
26 by Sections 13507 and 13512 of this Act.

27 Section 13512. Conditions of loans. Except as other-
28 wise provided in Section 13511, each contract of loan
29 under this Chapter with the lessee or any successor or
30 successors to his interest shall be held subject to the
31 following conditions whether or not stipulated in the

1 contract loan:

2 (a) The loans shall be repaid in periodic install-
3 ments, such installments to be monthly, quarterly, semi-
4 annual, or annual as may be determined by the Commission
5 in each case. The term of any loan shall not exceed
6 thirty (30) years. Payments of any sum in addition to the
7 required installments, or payment of the entire amount of
8 the loan, may be made at any time within the term of the
9 loan. All unpaid balances of principal shall bear interest
10 at the rate of two and one-half per cent (2-1/2%) a year
11 payable periodically or upon demand by the department may
12 determine. The payment of any installment due shall be
13 postponed in whole or in part by the Commission for such
14 reasons as it deems good and sufficient and until such
15 later date as it deems advisable. Such postponed payments
16 shall continue to bear interest at the rate of two and
17 one-half per cent (2-1/2%) a year on the unpaid principal.

18 (b) In the case of the death of a lessee the
19 Commission shall, in any case, permit the successor or
20 successors to the tract to assume the contract of loan.
21 In case of the cancellation of a lease by the Commission
22 or the surrender of a lease by the lessee, the Commission
23 may, at its option declare all installments upon the
24 loan immediately due and payable, or permit the successor
25 or successors to the tract to assume the contract of loan.
26 The Commission may, in such cases where the successor or
27 successors to the tract assume the contract of loan, waive
28 the payment, wholly or in part, of interest already due and
29 delinquent upon said loan, or postpone the payment of any
30 installment thereon, wholly or in part, until such later
31 date as it deems advisable. Such postponed payment shall,

1 however, continue to bear interest at the rate of two
2 and one-half per cent (2-1/2%) a year on the unpaid
3 principal. Further, the Commission may, if it seems
4 advisable and for the best interests of the lessees,
5 write-off and cancel, wholly or in part, the contract of
6 the deceased lessee, or previous lessee, as the case may
7 be, where such loans are delinquent and deemed uncollec-
8 tible. Such write-off and cancellation shall be made only
9 after an appraisal of all improvements and growing crops
10 on the tract involved, such appraisal to be made in the
11 manner and as provided for by Section 13508(a). In every
12 case, the amount of such appraisal, or any part thereof,
13 shall be considered as part or all, as the case may be,
14 of any loan to such successor or successors.

15 (c) No part of the moneys loaned shall be devoted to
16 any purpose other than those for which the loan is made.

17 (d) The borrower or the successor to his interest,
18 shall comply with such other conditions, not in conflict
19 with any provision of this Chapter, as the Commission may
20 stipulate in the contract of loan.

21 (e) The borrower or the successor to his interest
22 shall comply with the conditions enumerated in Section
23 13507 and with the provisions of Section 13508 of this
24 Chapter in respect to the lease of any tract.

25 (f) Whenever the Commission shall determine that a
26 borrower is delinquent in the payment of any indebtedness
27 to the Commission, it may require such borrower to execute
28 an assignment to it, not to exceed, however, the amount
29 of the total indebtedness of such borrower, including the
30 indebtedness to others the payment of which has been
31 assured by the Commission of all moneys due or to become

1 due to such borrower by reason of any agreement or con-
2 tract, collective or otherwise, to which the borrower is
3 a party. Failure to execute such an assignment when re-
4 quested by the Commission shall be sufficient ground for
5 cancellation of the borrower's lease or interest therein.

6 Section 13513. Insurance by borrowers; acceleration
7 of loans; lien and enforcement thereof. The Commission
8 may require the borrower to insure, in such amount as the
9 Commission may prescribe, any livestock, machinery, equip-
10 ment dwellings and permanent improvements purchased or
11 constructed out of any moneys loaned by the Commission;
12 or, in lieu thereof, the Commission may directly take out
13 such insurance and add the cost thereof to the amount of
14 principal payable under the loan. Whenever the Commission
15 has reason to believe that the borrower has violated any
16 condition enumerated in Paragraphs (b), (d), (e) or (f) of
17 Section Section 13512 of this Chapter, the Commission
18 shall give due notice and afford opportunity for a hearing
19 to the borrower or the successor or successors to his
20 interest, as the case demands. If upon such hearing the
21 Commission finds that the borrower has violated the
22 condition, the Commission may declare all principal and
23 interest of the loan immediately due and payable not-
24 withstanding any provision in the contract of loan to the
25 contrary. The Commission shall have a first lien upon the
26 borrower's or lessee's interest in any lease, growing
27 crops, either on his tract or in any collective contract
28 or program, livestock, machinery and equipment purchased
29 with moneys loaned by the Commission, and in any dwellings,
30 or other permanent improvements paid by the Commission,
31 and of all indebtedness of the borrower, the payment of

1 which has been assured by the Commission, including loans
2 from governmental agencies where such loans have been
3 approved by the Commission. Such lien shall have priority
4 over any other obligation for which the property subject
5 to the lien may be security. The Commission may, at such
6 times as it deems advisable, enforce any such lien by
7 declaring the borrower's interest in the property subject
8 to the lien to be forfeited, any lease held by the
9 borrower cancelled, and shall thereupon order such lease-
10 hold premises vacated and the property subject to the lien
11 surrendered within a reasonable time. The right to the use
12 and occupancy of the Chamorro homelands contained in such
13 lease shall thereupon revert in the Commission which may
14 take possession of the premises covered therein and the
15 improvements and growing crops thereon: provided that
16 the Commission shall pay to the borrower any difference
17 which may be due him after the appraisal provided for in
18 Paragraph (a) of Section 13508 of this Title has been made.

19 Section 13514. Ejectment, when: loan to new lessee
20 for improvements. In case the lessee or borrower or the
21 successor to his interest in the tract, as the case may
22 be, fails to comply with any order issued by the Commission
23 under the provisions of Section 13509 or 13513 of this
24 Chapter, the Commission may bring action of ejectment or
25 other appropriate proceedings for the enforcement of said
26 order. Any tract forfeited under the provisions of Section
27 13509 or 13513 of this Chapter may be again leased by the
28 Commission as authorized by the provisions of Section
29 13506 of this Chapter, except that the value, in the
30 opinion of the Commission, of all improvements made in
31 respect to such tract by the original lessee or any

1 successor to his interest therein shall constitute a
2 loan by the Commission to the new lessee. Such loan shall
3 be subject to the provisions of this section and Sections
4 13512 and 13513 to the same extent as loans made by the
5 Commission from the Chamorro Home Loan Fund.

6 Section 13515. All agencies, departments, boards,
7 commissions, and other instrumentalities of the territorial
8 government shall review their present statutory authority,
9 administrative regulations and current planning policies
10 and procedures for the purpose of determining whether
11 there are any deficiencies or inconsistencies therein
12 which prohibit full cooperation with the purposes and
13 provisions of this Chapter and shall propose to the
14 Commission not later than ninety (90) days after the
15 enactment of this Chapter measures as may be necessary to
16 bring their planning authority and policies into con-
17 formity with the intent, purposes, and procedures set forth
18 in this Chapter.

19 Section 13516. Severability. If any provision of this
20 Chapter or the application thereof to any person or cir-
21 cumstance is held invalid, such invalidity shall not
22 affect other provisions or applications of the Chapter
23 which can be given effect without the invalid provision
24 or application, and to this end the provisions of this
25 Chapter are severable."

26 Section 3. Section 3 of Public Law 12-61 is hereby amended
27 to read as follows:

28 "Section 3. Notwithstanding any other provision of
29 law to the contrary, Chamorro Land Trust Commission, the
30 Governor of Guam and the Director of the Department of
31 Land Management shall not sell, lease or exchange

1 government-owned property without the prior approval
2 of the Legislature. If the Legislature fails to act within
3 twenty (20) legislative days following receipt of such
4 proposed sale, lease or exchange, it shall be deemed to
5 have concurred. This section shall not apply to leases
6 made pursuant to Section 13506 of Chapter VI of the
7 Government Code of Guam."

8 Section 4. Section 13004 of Chapter I, Title XIV, Government
9 Code of Guam is hereby amended to read as follows:

10 "Section 13004. Reservation for use of government.
11 The Director, after public hearing and with legislative
12 concurrence, may, when necessary, reserve or set aside
13 government real property not reserved by law for a specific
14 public use for the future use of any other department or
15 agency of the government; provided, that control of such
16 real property shall not pass to such department or agency
17 until it is necessary to the proper function and operation
18 thereof. Property so reserved or set aside for future
19 government use may be put to such temporary uses, con-
20 sistent with the public interest, as the Director, with
21 approval of the Governor, deems desirable."

22 Section 5. Effective date. Section 1 shall take effect in
23 two steps: Section 1 of the bill and Sections 13501 and 13503(b)
24 of Section 2 of the bill shall take effect January 1, 1975.
25 The remaining sections in Section 1, and Sections 2 and 3 shall
26 take effect on the date the Commission has its first meeting.

CHAPTER XII-B (XII-A)

Confirmation of Public Rights

- § 13980. Legislative findings.
- § 13981. Researching and identifying public rights.
- § 13982. Confirming public rights.

§ 13980. Legislative findings. The Legislature finds that the traditional pattern of land ownership on Guam was that many areas of the island were completely open to public access and public's use of such land was totally unfettered. Examples of such areas are the dry sand area of Guam's beaches and the steep slopes of Guam's mountains, both areas having been referred to as *Monte Sine Dueno*. Additionally, there are many areas of Guam over which the public, through frequent and uninterrupted use, has acquired rights which need to be confirmed, settled, and vested by means of asserting these rights in land registration cases.

§ 13981. Researching and identifying public rights: duty of Land Records Division of the Department. The Land Records Division of the Department is hereby directed to conduct an exhaustive study of the patterns of land ownership and of public land use on Guam in order to identify those areas where the public may be able to establish a legally sufficient claim for ownership or use thereof in a land registration proceeding instituted by either the government of Guam on behalf of the public's right thereto or by a private citizen in derogation of the public's right thereof. The Division shall also conduct research and prepare reports with respect to such land as the Attorney General may request to assist the government's presentation in land registration cases in which the public's interest in land is being asserted.

§ 13982. Confirming public rights: duty of Attorney General. The Director shall report the findings of the Land Records Division to the Attorney General and it shall be the duty of the Attorney General to enter an appearance in or file on behalf of the public in land registration proceedings for any unregistered land over which the public has a claim as revealed by research and study of the Department. [§ 13980-13982 added by P.L. 12-61, effective November 27, 1973. *Note:* P.L. 12-61 declared the legislative intent that: "Notwithstanding any other provision of law to the contrary, the Land Transfer Board, the Governor of Guam and the Director of Land Management shall not sell, lease or exchange government-owned property without the prior approval of the Legislature. If the Legislature fails to act within twenty (20) Legislative days following receipt of such proposed sale, lease or exchange, it shall be deemed to have concurred. This section does not apply to Land Use Permits issued pursuant to Chapter VII of the Government Code of Guam."] [EDITOR'S NOTE: Chapter XII-A has been renumbered to Chapter XII-B to maintain numerical sequence.]

EMERGENCY DAYLIGHT SAVING TIME ENERGY CONSERVATION ACT

For Legislative History of Act, see p. 5455

PUBLIC LAW 93-434; 68 STAT. 1209

(H. R. 10192)

An Act to amend the Emergency Daylight Saving Time Energy Conservation Act of 1973 to exempt from its provisions the period from the last Sunday in October, 1974 through the last Sunday in February, 1975.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

Section 3 of the Emergency Daylight Saving Time Energy Conservation Act of 1973¹⁶ is amended--

(1) by inserting immediately after "(15 U.S.C. 269a(a))," in subsection (a) the following "and except as provided in subsection (c) of this section,"; and

(2) by adding at the end thereof the following subsection:

"(c) During the period commencing at 2 o'clock antemeridian on the last Sunday of October 1974, and ending at 2 o'clock antemeridian on the last Sunday of February 1975, the standard time of each zone established by the Act of March 19, 1918 (15 U.S.C. 261-264), as modified by the Act of March 4, 1921 (15 U.S.C. 265), shall be the standard time of each such zone pursuant to such Act of March 19, 1918, as so modified."

Sec. 2. Section 4(a) of the Emergency Daylight Saving Time Energy Conservation Act of 1973¹⁷ is amended by striking out "June 30, 1975" and inserting in lieu thereof "July 31, 1975".

Approved Oct. 5, 1974.

GUAM, VIRGIN ISLANDS, AMERICAN SAMOA--
LAND JURISDICTION

For Legislative History of Act, see p. 5461

PUBLIC LAW 93-435; 88 STAT. 1210

(H. R. 11553)

An Act to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

(a) Subject to valid existing rights, all right, title, and interest of the United States in lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and sea-

16. 15 U.S.C.A. § 269a.
17. 15 U.S.C.A. § 261.

ward ten line three geographical miles distant from the coastlines of the territories of Guam, the Virgin Islands, and American Samoa, as heretofore or hereafter modified by accretion, erosion, and reliction, and in artificially made, filled in, or reclaimed lands which were formerly permanently or periodically covered by tidal waters, are hereby conveyed to the governments of Guam, the Virgin Islands, and American Samoa, as the case may be, to be administered in trust for the benefit of the people thereof.

(b) There are excepted from the transfer made by subsection (a) hereof—

(i) all deposits of oil, gas, and other minerals, but the term "minerals" shall not include coral, sand, and gravel;

(ii) all submerged lands adjacent to property owned by the United States above the line of mean high tide;

(iii) all submerged lands adjacent to property above the line of mean high tide acquired by the United States by eminent domain proceedings, purchase, exchange, or gift, after the date of enactment of this Act, as required for completion of the Department of the Navy Land Acquisition Project relative to the construction of the Ammunition Pier authorized by the Military Construction Authorization Act, 1971 (84 Stat. 1204), as amended by section 201 of the Military Construction Act, 1973 (86 Stat. 1135);

(iv) all submerged lands filled in, built up, or otherwise reclaimed by the United States, before the date of enactment of this Act, for its own use;

(v) all tracts or parcels of submerged land containing on any part thereof any structures or improvements constructed by the United States;

(vi) all submerged lands that have heretofore been determined by the President or the Congress to be of such scientific, scenic, or historic character as to warrant preservation and administration under the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.);

(vii) all submerged lands designated by the President within one hundred and twenty days after the date of enactment of this Act;

(viii) all submerged lands that are within the administrative responsibility of any agency or department of the United States other than the Department of the Interior;

(ix) all submerged lands lawfully acquired by persons other than the United States through purchase, gift, exchange, or otherwise;

(x) all submerged lands within the Virgin Islands National Park established by the Act of August 2, 1956 (16 U.S.C. 393 et seq.), including the lands described in the Act of October 5, 1962 (16 U.S.C. 393c-393d); and

(xi) all submerged lands within the Pacific Land Reclamation National Monument as described in Presidential Proclamation 3448 dated December 28, 1961.

Upon request of the Governor of Guam, the Virgin Islands, or American Samoa, the Secretary of the Interior may, with or without reimbursement, and subject to the procedure provided in subsection (c) of this section convey all right, title, and interest of the United States in any of the lands described in classes (ii), (iii), (iv), (v), (vi), (vii), or (viii) of this subsection to the government of Guam, the Virgin Islands, or American Samoa, as the case may be, with the concurrence of the agency having custody thereof.

(c) No conveyance shall be made by the Secretary pursuant to this section until the expiration of sixty calendar days (excluding days on which the House of Representatives or the Senate is not in session because of an adjournment of more than three days to a day certain) from the date on which the Secretary of the Interior submits to the Committees on Interior and Insular Affairs of the House of Representatives and the Senate an explanatory statement indicating the tract proposed to be conveyed and the need therefor, unless prior to the expiration of such sixty calendar days both committees inform the Secretary that they wish to take no action with respect to the proposed conveyance.

Sec. 2. (a) Nothing in this Act shall affect the right of the President to establish naval defensive sea areas and naval airspace reservations around and over the islands of Guam, American Samoa, and the Virgin Islands when deemed necessary for national defense.

(b) Nothing in this Act shall affect the use, development, improvement, or control by or under the constitutional authority of the United States of the lands transferred by the first section of this Act, and the navigable waters overlying such lands, for the purposes of navigation or flood control or the production of power, or be construed as the release or relinquishment of any rights of the United States arising under the constitutional authority of Congress to regulate or improve navigation, or to provide for flood control or the production of power.

(c) The United States retains all of its navigational servitude and rights in and powers of regulation and control of the lands conveyed by the first section of this Act, and the navigable waters overlying such lands, for the constitutional purposes of commerce, navigation, national defense, and international affairs, all of which shall be paramount to, but shall not be deemed to include, proprietary rights of ownership, or the rights of management, administration, leasing, use, and development of the lands and natural resources which are specifically conveyed to the government of Guam, the Virgin Islands, or American Samoa, as the case may be, by the first section of this Act.

(d) Nothing in this Act shall affect the status of lands beyond the three-mile limit described in section 1 of this Act.

Sec. 2. Subsection (b) of section 4 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1524(b)) is amended to read as follows:

"(b) All rights, title, and interest of the United States in things placed under the control of the government of the Virgin Islands by section 4(a) of the Organic Act of the Virgin Islands of the United States (48 U.S.C. 1524(a)), not conveyed to the United States by the Secretary of the Interior within 100 days after the date of enactment of this subsection, is hereby conveyed to such government. The conveyance effected by the preceding sentence shall not apply to that land and other property which on the date of enactment of this subsection is administered by the Secretary of the Interior as part of the National Park System and such lands and other property shall be retained by the United States."

Sec. 4. On and after the date of enactment of this Act, all rents, royalties, or fees from leases, permits, or use rights, issued prior to such date of enactment by the United States with respect to the land conveyed by this Act, or by the amendment made by this Act, and suits of action for damages for trespass occupancies of such lands shall accrue and belong to the appropriate local government and in whose jurisdiction the land is located.

Sec. 5. The first section and sections 2 and 3 of the Act entitled "An Act to authorize the Secretary of the Interior to convey certain submerged lands to the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes", approved November 22, 1963 (48 U.S.C. 1701-1703), are repealed.

Sec. 6. No person shall be denied access to, or any of the benefit accruing from, the lands conveyed by this Act, or by the amendment made by this Act, on the basis of race, religion, creed, color, sex, national origin, or ancestry: *Provided, however*, That this section shall not be construed to derogate any of the provisions of the April 17, 1950 cession of Tutuila and Aunuu or the July 16, 1951 cession of the Manu Islands, as ratified by the Act of February 29, 1924 (45 Stat. 1273) and the Act of May 22, 1929 (46 Stat. 4).

Approved Oct. 5, 1974

APPROPRIATIONS—WEATHER MODIFICATION ACTIVITIES

PUBLIC LAW 93-435, 98 STAT. 1212

(S. 3220)

An Act to extend the appropriation authorization for reporting of weather modification activities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

Section 6 of the Act entitled "An Act to provide for the reporting of weather modification activities to the Federal Government", ap-

16. 45 U.S.C.A. § 1512(b).

19. 45 U.S.C.A. §§ 1701 to 1703

1974 SUPPLEMENT

§ 26003

TITLE XXVII

Parks and Recreation

CHAPTER I

Parks and Recreation

- § 26000. Definitions
- § 26001. Department: Purpose
- § 26002. Same: Divisions
- § 26003. Director: Duties
- § 26004. Commission: Purposes
- § 26005. Same: Composition: Compensation: Meetings
- § 26006. Same: Duties
- § 26007. Guam Territorial Park System
- § 26008. Same: Description
- § 26009. Same: Classification
- § 26010. Community Parks and Recreation Facilities: Control
- § 26011. Parks Division: Duties
- § 26012. Parks Fund: Establishment: Management
- § 26013. Same: Revenues from Concessions and Uses
- § 26014. Same: Donations: Proratio
- § 26015. Voluntary Improvements
- § 26016. Damage to Property
- § 26017. Recreation Division: Powers and Duties
- § 26018. Community Recreation Programs
- § 26019. Compliance with Federal Programs

§ 26000. Definitions. As used in this Chapter, unless otherwise indicated by the context:

- (a) 'Department' means the Department of Parks and Recreation.
- (b) 'Director' means the Director of the Department of Parks and Recreation.
- (c) 'Commission' means the Parks and Recreation Commission.

§ 26001. Department: Purpose. The Department shall be responsible for the accomplishment of the provisions of this Chapter and Chapter XIII, Title XIV of this Code.

§ 26002. Same: Divisions. The Department is divided into two divisions, to be known as the Parks Division and the Recreation Division.

§ 26003. Director: Duties. The Director shall have the following duties:

- (a) To establish rules and regulations to accomplish the purpose of the Department;
- (b) To administer the Department through such organizational units which he may establish;
- (c) To attend, ex-officio, all meetings of the Commission;

monies shall be invested as to be available for use within thirty (30) days of the effective date of any legislative appropriation made thereof. The Department certifying officer shall be the certifying officer for the Fund.

§ 26013. Same: Revenue from Concessions and Uses. The Director may grant permits to individuals or groups to establish concessions on or otherwise use any part of the Guam Territorial Park System, the fee for which shall be deposited in the Parks Fund; provided, that any person or group granted such a permit must give bond in such amount as, in the opinion of the Director, is necessary to insure that any damage to the System caused by such person or group, including littering, can be rectified.

§ 26014. Same: Donations: Proviso. Money or the proceeds of any property donated, granted or bequeathed generally for the benefit of the Guam Territorial Park System shall be deposited in the Parks Fund; provided, however, that money or property donated, granted or bequeathed for specific purposes, concerning the System or any part thereof shall be held in trust by the Director, and may be used for such purposes only upon authorization by the Legislature.

§ 26015. Voluntary Improvements. The Director may grant permits to any individuals or group to improve, without expense to the government, any part of the Guam Territorial Park System.

§ 26016. Damage to Property. Any person who injures or damages any property within the Guam Territorial Park System, or who removes, destroys, or defaces any tree, shrub, plant, or other attraction of any nature on or in such property is guilty of a misdemeanor, punishable by a fine not to exceed Five Hundred Dollars (\$500.00) per violation.

§ 26017. Recreation Division: Powers and Duties. The Recreation Division shall be responsible for:

- Initiating, promoting and supervising recreational programs on areas within the Guam Territorial Park System, except as provided in § 26018, and, with the consent of the Department of Education, initiating, promoting and supervising recreational programs on properties under the control of the Department of Education;
- Providing equipment necessary to accomplish (a) above;
- Formulating a comprehensive recreation policy and a long range plan relative to the development of new recreation facilities and programs within the territory, such policy and plan to be developed in cooperation with other federal and territorial agencies, interested organizations and citizens, and to be submitted to the Legislature within one (1) year of the effective date of this section; and
- Performing such other duties and functions pertaining to the promotion of public recreation as may from time to time be prescribed by the Director.

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§ 26007

GOVERNMENT CODE

(d) To prescribe the duties of assistants, deputies, agents and other persons employed by the Department;

(e) To determine which properties constitute the Guam Territorial Park System and to classify such properties, pursuant to § 26007 and § 26009;

(f) To manage the Parks Fund pursuant to § 26012; and

(g) To be State Liaison Officer for the Bureau of Outdoor Recreation, State Liaison Officer for Historic Preservation and State Liaison Officer for Forestry and Conservation Programs.

§ 26004. Commission: Purposes. The Commission is hereby established for the purpose of appointing, removing, and advising the Director.

§ 26005. Same: Composition: Meetings. The Commission shall consist of seven (7) members, two (2) of whom shall be youth members in their first terms on the Board who are between the ages of eighteen (18) and twenty-two (22), when appointed, who shall be appointed by the Governor with the consent of the Legislature. The Governor shall appoint commission members within 30 days of the effective date of this section. Members shall serve for four (4) years, provided that of the members first appointed, three (3), including one (1) youth member, shall serve for two (2) years. Commission members shall serve without pay but shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties. Commission meetings shall be public.

§ 26006. Same: Duties. The Commission shall have the following duties:

- To appoint, within 15 days of the effective date of this section or within 15 days of the creation of a vacancy in such office, the Director, who shall serve at its pleasure, the affirmative vote of not less than four (4) members being necessary to appoint or remove him;
- To advise the Director on such matters relative to the Department as he shall bring before it, at meetings called by him;
- To meet at the request of any of its members to discuss such matters relative to the Department as it deems appropriate and to make recommendations to the Director thereon; and
- To make a report to the Governor and the Legislature not later than July 1 of each year delineating the activities of the Department during the preceding fiscal year, and outlining the plans of the Department for the coming fiscal year.

§ 26007. Guam Territorial Park System. There is hereby created the Guam Territorial Park System. The Director of Parks and Recreation shall inventory all properties belonging to the government of Guam and determine which properties shall be included therein. A detailed list shall be forwarded to the Speaker of the Legislature and the Legislature shall approve or disapprove those properties to be included

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§ 26018. Community Recreation Programs. The initiation, promotion, and supervision of recreation programs in Community Parks and Recreation Facilities, and the supplying of equipment therefor, is the responsibility of the Commissioners of the municipality or village in which such Park or Recreation Facility is located.

§ 26019. Compliance with Federal Programs. The Department may serve as the agency for compliance with the terms of any Federal program, as determined by the Governor, which concerns the implementation or development of plans for the conservation or utilization of water and related land resources. [Chapter 10 of Title XXVII added in 1992; Repealed and reenacted by P.L. 12-209, effective January 23, 1975.]

1974 SUPPLEMENT

26012

within the Territorial Park System, within thirty (30) legislative days following receipt of such a list and failure to so act shall be deemed consent by the Legislature.

§ 26008. Same: Description. The Territorial Surveyor shall provide the Director with maps of record for all property within the Guam Territorial Park System not later than eighteen (18) months after request by the Director. The Department of Land Management shall similarly provide recorded document numbers for all such property.

§ 26009. Same: Classification. The Director shall classify, and may subsequently reclassify, each area of the Guam Territorial Park System according to (a) through (e) below, unless an area is listed in the Guam Register of Historic Places pursuant to § 13985, 19(a) of this Code, in which case such area shall be classified according to (e) below:

- Natural Preserves, which are to remain unimproved;
- Conservation Reserves, which may be improved for the purpose of making them accessible to the public in a manner consistent with the preservation of their natural features;
- Territorial Parks or Community Parks, which may be improved for the purpose of providing public recreational facilities in a manner consistent with the preservation of their natural features;
- Territorial Recreation Facilities or Community Recreation facilities, which may be improved for the purpose of providing public recreation facilities; and
- Historical and Pre-Historic Objects and Sites, which shall be administered according to Chapter XIII, Title XIV of this Code.

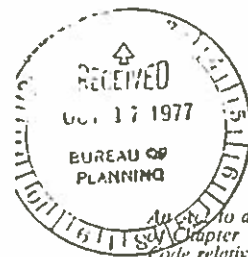
§ 26010. Community Parks and Recreation Facilities: Control. The control, management, development and maintenance of areas classified as 'Community Parks' and 'Community Recreation Facilities' shall be vested in the Commissioner of the municipality or village in which such area is located.

§ 26011. Parks Division: Duties. The Parks Division shall have the following duties:

- To control, manage, develop and maintain all areas of the Guam Territorial Park System except as provided in § 26010; and
- To keep a listing of all areas of the Guam Territorial Park System according to classification, with current, accurate descriptions thereof as determined by the Director in accordance with § 26007.

§ 26012. Parks Fund: Establishment: Management. There is hereby established separate and apart from any other government fund a Parks Fund. Monies therein shall be only as appropriated by the Legislature for the development or improvement of the Guam Territorial Park System. The Fund shall be managed by the Director, who may invest any of the monies therein in such bank deposits, bonds or securities authorized by Chapter III, Title V of this Code, provided, that such

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Public Law 14-12
Fourteenth Guam Legislature
(Bill 28)

AN ACT

Amended to amend Section 26007 and to add a new Section 26009.1 all say Chapter V of Title XXVII (Public Law 12-209) of the Government Code relative to the listing of Parks and Recreation areas of the Guam Territorial Park System.

Be it enacted by the People of the Territory of Guam:

Section 1. Section 26007 (Public Law 12-209) of the Government Code is hereby amended to read as follows:

"Section 26007. Guam Territorial Park System. There is hereby created the Guam Territorial Park System. The Director of Parks and Recreation shall inventory all properties belonging to the government of Guam and determine which properties shall be included therein. A detailed list shall be forwarded to the Speaker of the Legislature and the Legislature shall, after public hearing and report by the appropriate standing committee, approve or disapprove those properties to be included within the Territorial Park System, as designated under Section 26009.1, within thirty (30) legislative days following receipt of such a list and failure to so act shall be deemed consent by the Legislature. The list shall be added to or deleted as deemed necessary."

Section 2. A new Section 26009.1 is hereby added to the Government Code to read as follows:

"Section 26009.1. Reserved properties. Pursuant to Sections 26007 and 26009 of this Chapter, the below described properties are reserved for public parks according to their respective classifications in numerical order:

- (a) Natural Preserves;
- (b) Conservation Reserves;
- (c) Territorial Parks or Community Parks;
- (d) Territorial Recreation Facilities or Community Recreation Facilities;
- (e) Historical and Pre-Historic Objects and Sites."

Section 3. This is an urgency measure.

Approved April 5, 1977

1974 SUPPLEMENT

§ 13985.2

CHAPTER XIII

Historical Objects and Sites

Part I

- § 13985. Purpose
- § 13985.1. Definitions
- § 13985.2. Historic preservation and restoration
- § 13985.3. Administration
- § 13985.4. Acquisitions and gifts
- § 13985.5. Condemnation
- § 13985.6. Interest acquired
- § 13985.7. Operation of parties
- § 13985.8. Conveyance of properties
- § 13985.9. Contracts
- § 13985.10. Entry upon private land
- § 13985.11. Excavation and removal of prehistoric and historic remains or objects on private lands
- § 13985.12. Court actions
- § 13985.13. Guam Museum as a depository for certain specimens and objects
- § 13985.14. Designation of historic sites

§ 13985. Purpose. Whereas the Legislature has determined that the historic, archaeological, architectural, and cultural heritage of Guam is among her most important environmental assets and furthermore that the rapid social and economic development of contemporary society threatens to destroy the remaining vestiges of this Spanish-Chamorro heritage, it is declared to be the public policy and in the public interest of this territory to engage in a comprehensive program of historic preservation, undertaken at all levels of the government of this territory, and to promote the use and conservation of such property for education, inspiration, pleasure, and enrichment of the residents of this territory.

§ 13985.1 Definitions. When used in this Chapter 'department' means the 'Department of Parks and Recreation'.

(1) 'Historic preservation' means the research, protection, restoration, and rehabilitation of sites, buildings, structures, and objects significant in the history, architecture, archaeology, or culture of Guam.

(2) 'Historic property' means any building, structure, object, area, or site that is significant in the history, architecture, archaeology, or culture of Guam or the nation. [Amended by P.L. 12-209, effective January 23, 1976.]

§ 13985.2 Historic preservation and restoration. The department in cooperation with the Central Planning Council shall establish a comprehensive program for historic preservation, restoration, and presentation, which shall include but not be limited to the following:

- (1) Plans to acquire, restore, and preserve historic areas, buildings, and sites significant to Guam's past;
- (2) Establish and maintain the Guam Register of Historic Places;

(a) Before any prehistoric remains or objects are excavated or removed from private lands by the Department, the Department or its designated representatives may, for the purpose of examining the remains or objects, enter upon the land and make investigations. The entry shall not constitute a cause of action in favor of the owner of the land, except for damages resulting from willful acts or negligence on the part of the Department or its designated representatives.

§ 139B5.12. Court actions. Where any violation of this Chapter occurs, or is likely to occur, which will result in unauthorized or improper demolition, alteration, or transfer of historic property, the Attorney General, any agency of the territory, any person, partnership, corporation, association, organization, or other legal entity may maintain an action in the Superior Court for declaratory and equitable relief against the territory, any person, partnership, corporation, association, or organization, or other legal entity for the protection of a historic property and the public trust therein. Any party who prevails in an action brought under the provisions of this section shall be awarded his costs, including reasonable attorney fees.

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- (3) Establish regulations on the uses of such areas.
- (4) Develop a territory wide survey of historic areas, buildings, and sites with a phased preservation and restoration development plan and accompanying budget and land use recommendations;

(5) Provide for matching grants-in-aid to private agencies for projects which will fulfill the purposes of this Chapter;

(6) Seek assistance for the territorial historic preservation and restoration program by applying for technical assistance and funds from the Federal government and private agencies and foundations for the purposes of this Chapter;

(7) Employ sufficient professional and technical staff for the purposes of this Chapter;

(8) Advise and cooperate with other public and private agencies engaged in similar work;

(9) Submit an annual report and budget to the Governor and the Legislature by February 1 of each year, with recommendations for programs of historic preservation and restoration.

§ 13985.3. Administration. All territorial projects and programs relating to historic preservation and restoration shall come under the authority of the Department.

§ 13065.4. Acquisitions and gifts. For the purpose of protecting or preserving any historic property, the Department may acquire, preserve, restore, hold, maintain, operate, or dispose of such properties, together with such adjacent or associated lands as may be necessary for their protection, preservation, maintenance, or operation. Such property may be real or personal in nature, and in the case of real property, the acquisition may include the fee or any lesser interest therein. Property may be acquired by gift, grant, bequest, devise, lease, purchase, condemnation, or otherwise. Property may be acquired by the Department, using such funds as may be appropriated for such purpose.

The Department may receive gifts and grants from public and private sources to be used for the purposes of this Chapter.

§ 13085.6. **Condemnation.** In the event that a property which has been found by the Department to be important for public ownership or assistance is in danger of being sold, used, or neglected to such an extent that its historical or cultural importance will be destroyed or seriously impaired, or that the property is otherwise in danger of destruction or serious impairment, the Department in cooperation with the Department of Land Management may acquire the historical property or any interest therein by condemnation under the laws of this territory. All condemnation proceedings shall be instituted and prosecuted in the name of the territory.

§ 13985.6. Interest acquired. In the case of real property, the interest acquired shall be limited to that estate, agency, interest, or term deemed by the Department to be reasonably necessary for the continued

§ 13985.14. Designation of historic sites. The Department shall designate particular places as places of historic interest¹, and take such action, including the erection of signs or markers, as may be appropriate for public recognition and appreciation of such sites.

- § 13965.19. Declaration of legislative intent
- § 13965.16. Definitions
- § 13965.17. Archeological resources on government land
- § 13965.18. Archeological investigation, recording, and salvage; appropriations
- § 13965.19. Prehistoric and historic sites and remains

- § 13985.20. Permits to examine ruins, excavate, and gather objects on public lands
- § 13985.21. Monuments; reservation of land; relinquishment of private claims
- § 13985.22. Excavation and removal of prehistoric and historic remains on private lands
- § 13985.23. Cooperation of other governmental units
- § 13985.24. Field investigations on private lands
- § 13985.25. Penalties
- § 13985.26. Prehistoric or historic objects; public property
- § 13985.27. Reproductions of prehistoric or historical objects; representation as originals; penalties
- § 13985.28. Removal and trespass

§ 1398a.15. Declaration of legislative intent. The Legislature declares that the public has an interest in the preservation and protection of the territory's archaeological resources; that the public has a right to the knowledge to be derived and gained from a scientific study of these resources; and that therefore it is the purpose of this part to provide for the preservation, excavation, study, and exhibition of the territory's archaeological resources be undertaken in a coordinated and organized manner for the general welfare of the public as a whole.

§ 13985.16. Definitions. As used in this part:

1) "Field investigation" means the study of the traces of human culture at any land or water site by means of surveying, digging, sampling, excavating, or removing surface or subsurface objects, or going on a site with that intent.

(2) 'Site' means any aboriginal mound, homestead, earthwork, village location, burial ground, historic or prehistoric ruin, quarry, cave, or other location which is or may be the source of important archaeological data.

protection or preservation of the property. The Department may acquire the fee simple title, but where it finds that a lesser interest, including any development right, negative or affirmative easement in gross, or any other contractual right of or to any real property, to be the most practical and economical method of protecting and preserving historical property, the lesser interest may be acquired.

§ 13965.B. Conveyance of properties. In appropriate cases, the Department of Land Management with the concurrence of the Department may acquire or dispose of the fee or lesser interest to any historic property, including adjacent and associated lands, for the specific purpose of conveying or leasing the property back to its original owner or to any such other person, firm, association, corporation, or other organization under such covenants, deed restrictions, lease, or other contractual arrangements as will limit the future use of the property in such a way as to insure its preservation. In all cases where the property is conveyed, it shall be subject by covenant or otherwise to such rights of access, public visitation, and other conditions or restrictions of operation, maintenance, restoration, and repair as the Department may prescribe or to such conditions as may be agreed upon between the Department and the grantee or lessee to accomplish the purposes of this section.

§ 13985.9. Contracts. The Department may enter into and carry out contracts with the Federal government or any agency thereof under which the Federal government or agency grants financial or other assistance to the Department to further the purposes of this Chapter. The Department may agree to and comply with any reasonable conditions not inconsistent with territorial law which are imposed on such grants. Such grant funds or other assistance may be accepted from the Federal government or agency and expended whether or not pursuant to a contract. The Department may further enter into and carry out contracts with any private party to further the purpose of this Chapter.

§ 13985.10. Entry upon private land. The Department is authorized to enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof; provided that no member, employee or agent of the Department may enter any private building or structure without the express consent of the owner or occupant thereof.

§ 13985.22. Excavation and removal of prehistoric and historic remains on private lands. Before any prehistoric or historic remains are excavated or removed from private lands by the Department, the department or its designated investigators shall first secure the written approval of the owner of such lands. Whenever the value of the private prehistoric or historic site is diminished by the excavation or removal of prehistoric or historic remains by the Department, the owner of the site, shall be compensated for the loss, at a monetary sum mutually agreed upon by the Department and the owner or at a monetary sum set by the court.

§ 13985.23. Cooperation of other governmental units. All agencies, departments, institutions, and commissions, shall cooperate fully with the Department in the preservation, protection, excavation, and evaluation of specimens and sites and to that end:

(1) When any agency finds or is made aware by an appropriate historical or archaeological authority that its operation in connection with any territory, territory assisted, territory licensed, or contracted project, activity, or program adversely affects or may adversely affect scientific, historical, or archaeological data, such agency shall notify the Department and shall provide the Department with appropriate information concerning the project, program, or activity. The provisions of this section shall be made known to contractors by the territorial agencies doing the contracting.

(2) The Department, upon notification or determination that scientific, historical, or archaeological data including relics and specimens, is or may be adversely affected, shall, after reasonable notice to the responsible agency, conduct or cause to be conducted a survey and other investigations to recover and preserve or otherwise protect such data, including analysis and publication, which in its opinion should be recovered in the public interest.

(3) The Department shall initiate actions within sixty (60) days of notification under Paragraph (1) and within such time as agreed upon in other cases. The responsible agency is authorized and directed to expend agency funds for the purpose of recovering such data, including analysis and publications, and such costs shall be included as part of the contractor's costs if the adverse affect is caused by work being done under contract to a territorial agency.

§ 13985.24. Field investigations on privately owned lands. It is the declared intention of the Legislature that field investigations on privately owned lands should be discouraged except in accordance with both the provisions and spirit of this Chapter, and persons having knowledge of the location of archaeological sites are encouraged to communicate such information to the Department.

§ 13985.25. Penalties. It shall be unlawful for any person to take, appropriate, excavate, injure, or destroy any prehistoric or historic ruin or monument or object of antiquity, situated on lands owned or controlled

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(3) 'Specimens' mean all relics, artifacts, remains, objects, or any other evidence of a historical, prehistoric, archaeological, or anthropological nature, which may be found on or below the surface of the earth, and which have scientific or historic value as objects of antiquity, as aboriginal relics or as archaeological samples.

§ 13985.17. Archaeological resources on government land. The territory reserves to itself the exclusive right and privilege of field investigation on sites owned or controlled by the territory, its agencies, departments, or institutions in order to protect and preserve archaeological and scientific information and objects. All new information and objects deriving from government lands shall remain the property of the territory and be utilized for scientific or public educational purposes.

§ 13985.18. Archaeological investigation, recording, and salvage appropriations. Whenever any public construction or improvement of any nature whatsoever is undertaken by any government agency on lands which are controlled or owned by the territory and which are sites of historic or prehistoric interest and value, or locations of prehistoric or historic remains, one percent of the appropriation for such public construction or improvement, or so much thereof as may be necessary, shall be expended by the department for the archaeological investigation, recording, and salvage of such sites or remains when it is deemed necessary by the department.

§ 13985.19. Prehistoric and historic sites and remains.

(a) The Department shall locate, identify, and preserve in the Guam Register of Historic Places information regarding prehistoric and historic sites, locations, and remains. The Department of Land Management shall clearly designate on its records and cadastral maps of the territory, the location of all prehistoric and historic sites, or locations and remains.

(b) Before any public construction or improvement of any nature whatsoever is undertaken by the territory, or any governmental agency or officer, the head of such agency or such officer shall first examine the Department's records and cadastral map of the area to be affected by such public construction or improvement to determine whether any site listed upon the Guam Register of Historic Places is present. If so designated, the proposed public construction or improvement shall not be commenced, or, in the event it has already begun, continued, until the head of such agency or such officer shall have advised the Department of the proposed public construction or improvement and shall have secured the concurrence of the Department or, as hereafter provided, shall have secured the written approval of the Governor.

If the concurrence of the Department is not obtained within ninety days after the filing of a request therefor with the Department or after the filing of a notice of objections by the Department with the agency or officer seeking to proceed with any project, such agency or officer may apply to the Governor for permission to proceed notwithstanding the

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by the territory without the permission of the Department. Any person who violates this section shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned not more than ninety (90) days, or both. Any prehistoric and historic objects and remains which have been taken without a permit shall be seized, deposited, and preserved in public museums by the Department.

§ 13985.20. Prehistoric or historic objects; public property. The Department shall, subject to the provisions of this Chapter, determine the disposition of such prehistoric or historic remains or objects wherever located within the territory which are the property of the territory. Any person who disturbs remains or objects of prehistoric or historic significance or removes such remains or objects from its site with the intent to convert the object to his own use or for the use of others shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned not more than ninety (90) days, or both.

When a private landowner or lessee in the territory discovers remains or objects which may be of historic significance on his property, he shall report the location of such remains or objects, without disturbing the remains or objects, to the Department. Such private landowner shall be compensated, in accordance with § 13985.11 for any prehistoric or historic remains or objects excavated or removed from his lands by the Department.

§ 13985.27. Reproduction of prehistoric or historical objects; representation as originals; penalties. It shall be unlawful to reproduce or forge a prehistoric or historical object with the intent to represent it as an original. Any person who violates this section shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned not more than ninety (90) days, or both.

§ 13985.28. Removal and trespass. It shall be deemed an act of trespass for any person, natural or corporate, to remove artifacts and antiquities of the kind described herein from the private land of any owner thereof without his permission being first obtained, and any person so doing shall be guilty of a misdemeanor punishable by a fine not exceeding Five Hundred Dollars (\$500) or by imprisonment for a period not to exceed six (6) months, or both.

Part III Protection and Recovery of Underwater Historic Property and Sites

§ 13985.29. Declaration of legislative intent

§ 13985.30. Definitions

§ 13985.31. Title to underwater historic property

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nonconcurrence of the Department and the Governor may take such action as he deems best in overruling or sustaining the Department.

(c) Before any construction, alteration, or improvement of any nature whatsoever is undertaken or commenced on a designated private prehistoric or historic site listed on the Guam Register of Historic Places by any person, he shall give to the Department three (3) months notice of intention to construct, alter, or improve the site.

After the expiration of the three-month notification period, the Department shall either commence condemnation proceedings for the purchase of the site or remains, permit the owner to proceed with his construction, alteration, or improvement, or undertake or permit the recording and salvaging of any historical information deemed necessary to preserve Spanish-Chamorro history, by any qualified agency for this purpose.

Any person who violates the provisions of the first paragraph of this subsection shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned not more than ninety (90) days or both.

(d) Inclusion of any historic site structure, building or object on the Guam Register of Historic Places shall be by the majority affirmative vote of the Guam Review Board for Historic Preservation.

§ 13985.20. Permits to examine ruins, excavate, and gather objects on public lands. Permits for the examination of ruins, excavation of archaeological sites, and the gathering of objects of antiquity upon lands owned or controlled by the territory may be granted by the Department to persons or institutions which they deem properly qualified to conduct such examination, excavation, or gathering, subject to such rules and regulations as the Department may prescribe; provided, that the examinations, excavations, and gatherings are undertaken for the benefit of public museums, universities, colleges, or other recognized public scientific or educational institutions, with a view to increasing the knowledge of such objects and that the gatherings may be made for permanent preservation in public museums if so deemed by the Department.

§ 13985.21. Monuments; reservation of land; relinquishing of private claims. Upon the recommendation of the Department, the Governor may declare by executive order historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the territory to be territorial monuments and may reserve as a part thereof parcels of land the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected. When such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the territory, and the Governor is authorized to accept the relinquishment of such tracts on behalf of the territory.

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This corporation shall be the depository of all resources which are made available or offered of desirable land, historical collections, and donations made by groups and persons as gifts to the territory to help insure the Spanish-Chamorro heritage.

§ 13985.37. Establishment of the Guam Institute of Spanish-Chamorro Culture; board of trustees. There is created an educational, nonprofit corporation to be known as the Guam Institute of Spanish-Chamorro Culture which shall be headed by a board of trustees. The board shall consist of eleven (11) members of which the following shall serve as ex-officio voting members of the board:

- (1) President of the University of Guam,
- (2) Director of the Micronesia Area Research Center,
- (3) Director of the Central Planning Commission,
- (4) Director of Parks and Recreation,
- (5) Attorney General.

The remaining members shall be chosen by the members of the Institute from its membership at any regular meeting of the Institute except that the initial members of the board shall be appointed by the Governor. Each member of the board other than ex-officio members shall serve for a term of five (5) years from the expiration of his predecessor's term, except that the members first appointed shall serve for terms of from one (1) to five (5) years as designated by the Governor at the time of appointment. A vacancy in the board shall be filled for the balance of the unexpired term as prescribed in the rules and regulations of the Institute. The chairman of the board shall be elected by majority vote of the members of the board. No compensation shall be paid to members of the board of trustees for their services as such members, but they may be reimbursed for travel and actual and reasonable expenses necessarily incurred by them in attending board meetings and performing other official duties on behalf of the Institute at the direction of the board.

Membership shall be open to any resident of Guam upon payment of such reasonable fees as the board of trustees may prescribe. [Amended by P.L. 12-209, effective January 29, 1976.]

§ 13985.38. Powers and duties. The Guam Institute of Spanish-Chamorro Culture shall have the following powers and duties:

- (1) To have succession until dissolved by act of the Legislature, in which event title to the properties of the Institute, both real and personal, shall, insofar as consistent with existing contractual obligations and subject to all other legally enforceable claims or demands by or against the Institute, pass to and become vested in the territory;
- (2) To sue or be sued in its corporate name;
- (3) To adopt, alter, and use a corporate seal;
- (4) To adopt a constitution and to make such bylaws, rules, and regulations, not inconsistent with the laws of the territory, as it deems necessary for the administration of its functions, bylaws, rules, and regulations governing visitation to historic properties, museums, and other facilities under its control, administration of corporate funds, and

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the organization and procedure of the board of trustees:

- (5) To select and employ a director to serve on a full-time basis who shall be a native-born resident who by reason of education or extensive experience is generally recognized as being professionally qualified in the field of Spanish-Chamorro culture, who shall receive a salary of Twenty-five Thousand Dollars (\$25,000) per year. The director shall execute the powers and duties of the Institute under the direction of the board of trustees and shall select necessary additional staff subject to Title V of the Government Code, within available appropriations. The Institute director shall serve as the museum director and shall hire necessary additional staff subject to Title V of the Government Code. The Institute shall submit in its first annual report recommendations as to the responsibility and role which the museum should assume with respect to the preservation and furtherance of the historic, archaeological, architectural, and cultural heritage of Guam and as to organization and administrative arrangements which should be provided for by law or otherwise.

(7) To accept, hold, and administer funds and properties from private or governmental agencies for the purposes for which the Institute is created and in accordance with such conditions as the transferring agency or the Legislature may prescribe.

(8) To accept, hold, and administer gifts and bequests of money, securities, or other personal property of whatever character, in trust, for the purposes for which the Institute is created. Unless otherwise restricted by the terms of the bequest or gift, the Institute is authorized to sell, exchange, or otherwise dispose of, and to invest or reinvest in such investments as it may determine from time to time the moneys, securities, or other property given or bequeathed to it. The principal of such corporate funds, together with the income therefrom and all other revenues received by it from any source whatsoever, shall be placed in such depositories as the Institute shall determine and shall be subject to expenditure by the Institute for its corporate purposes.

(9) To acquire by gift, devise, purchase, and to hold in trust real property for the territory and for the people of Guam unless otherwise restricted by the terms of the gift or devise, to encumber, convey, or otherwise dispose of any real property, or any estate or interest therein with the exception that no designated historic site or monument may be encumbered, conveyed, or disposed of without legislative approval, as may be necessary and proper in carrying into effect the purposes of the Institute.

(10) To conduct research, studies, and investigations in the fields of history and the humanities, and to make, publish, and distribute the results thereof.

(11) To coordinate and correlate activities and projects of the Institute with the work of the University of Guam, the Department, and other territorial agencies to further the purposes of this Chapter.

(12) To stimulate, guide and promote the Spanish-Chamorro culture which includes the arts, music, festivals, customs, traditions and mores

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§ 13985.32. Custody of underwater historic property

§ 13985.33. Salvage research

§ 13985.34. Permits

§ 13985.35. Penalties

§ 13985.29. Declaration of legislative intent. The Legislature declares that the public has an interest in the protection and salvage of underwater historic properties situated under the navigable waters and territorial seas of the territory; that the public has a right to the knowledge to be derived and gained from a scientific study of these materials; and that therefore it is the purpose of this part to provide that activities for the protection, recovery, study, and exhibition of underwater historic properties be undertaken in a coordinated and organized manner for the general welfare of the public as a whole.

§ 13985.30. Definitions. As used in this part, "underwater historic property" means any shipwreck, vessel, cargo, tackle, or underwater archaeological specimen, including any found at refuse sites or submerged sites of former habitation, that has remained unclaimed for more than ten (10) years on the bottoms of any waters.

§ 13985.31. Title to underwater historic property. Subject to any statute of the United States and any vested riparian rights, the title to all bottoms of navigable water within Guam's boundaries and the title to any underwater historic property lying on or under such bottoms is declared to be in the territory, and such bottoms and underwater historic properties shall be subject to the exclusive dominion and control of the territory.

§ 13985.32. Custody of underwater historic property. The custodian of underwater historic properties as defined in § 13985.29 and § 13985.30 shall be the Department which shall administer the preservation and protection of these properties as hereinafter directed by this part. The Department is empowered to prescribe such rules and regulations as may be necessary to preserve, protect, and recover any or all underwater historic properties.

§ 13985.33. Salvage research. The Department shall establish a center responsible for salvage research in areas designated by the Department as endangered by the lease, sale, or use of public or private land.

§ 13985.34. Permits. Any qualified persons, firm, or corporation desiring to conduct any type of exploration or recovery operations, in the course of which any underwater historic property or part thereof may be removed, displaced, or destroyed, shall first make application to the Department for a permit to conduct such operations. If the Department finds that the granting of such permit is in the best interest of the territory, it may grant such applicant a permit for such a period of time and under such conditions as the Department deems to be in the best

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interest of the territory. Such permit may provide for the fair compensation to the permittee in terms of a percentage of the reasonable cash value of the objects recovered or a fair share of the objects recovered, such fair compensation or share to be determined by the Department. Superior title to all objects recovered shall be retained by the territory unless or until they are released to the permittee by the Department. All exploration and recovery operations undertaken pursuant to a permit issued under this section shall be carried out under the general supervision of the Department and in accordance with the rules and regulations prescribed under § 13985.32 and in such manner that the maximum amount of historic, scientific, archaeological, and educational information may be recovered and preserved in addition to the physical recovery of items. Permits may be renewed upon or prior to expiration upon such terms as the Department may specify. Holders of permits shall be responsible for obtaining permission of any federal agencies having jurisdiction prior to conducting any salvaging operations.

§ 13985.35. Penalties. Any person violating the provisions of this part or any rules and regulations duly established thereunder shall be guilty of a misdemeanor punishable by a fine not exceeding Five Hundred Dollars (\$500) or by imprisonment for a period not to exceed six (6) months, or both, and, in addition, shall forfeit to the territory any artifacts or objects collected.

Part IV

Guam Institute of Spanish-Chamorro Culture

§ 13985.36. Statement of purpose. The purpose of this part is to create a nonprofit corporation for historic and cultural preservation, research, restoration, presentation, museum activities, and support programs, and in cooperation with and in assistance to the Department and other territorial agencies to receive sites, buildings, and objects significant in Guam's history and culture, to preserve and administer them for public benefits; to accept, hold, and administer gifts, securities, grants, scholarships, endowments, private bequests, or other property of whatsoever character for a comprehensive historic and cultural preservation and museum program.

§ 13985.37. Establishment of Guam Institute of Spanish-Chamorro Culture; board of trustees

§ 13985.38. Powers and duties

§ 13985.39. Development of support programs

§ 13985.40. Annual report

§ 13985.36. Statement of purpose. The purpose of this part is to create a nonprofit corporation for historic and cultural preservation, research, restoration, presentation, museum activities, and support programs, and in cooperation with and in assistance to the Department and other territorial agencies to receive sites, buildings, and objects significant in Guam's history and culture, to preserve and administer them for public benefits; to accept, hold, and administer gifts, securities, grants, scholarships, endowments, private bequests, or other property of whatsoever character for a comprehensive historic and cultural preservation and museum program.

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CHAPTER V-B
Ocean Shores: Territory Beach Areas

- § 13450. Legislative findings
- § 13451. Legislative policy
- § 13452. Construction and interpretation
- § 13453. Definitions
- § 13454. Ownership of Guam ocean shore
- § 13454. Vesting of public rights in same
- § 13456. Acquisition of same
- § 13457. Guam ocean shore not to be alienated
- § 13458. Title and rights of territory unimpaired
- § 13459. Liability of property owners of ocean shore
- § 13460. Landowner declaration of control of same

§ 13450. Legislative findings. The Legislature declares that:

(a) The traditional pattern of land ownership of land abutting the beaches and ocean shores of Guam is that a strip of dry land between the mean high watermark as can be physically established from the latest tide elevation data published by the U.S. Coast and Geodetic Survey, and privately-owned land is owned by the government for general use of the inhabitants of the island, being open and available to all users, both for recreational purposes and as a means of livelihood for thrownet fishermen;

(b) The shore side boundaries of privately-owned real properties which were surveyed before World War II did not extend to the mean high watermark, as can be testified to respecting the privately-owned land along Agaña Bay in the Organized villages of Asan, Piti and Agat;

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of the Spanish-Chamorro heritage;

(13) To assist in coordinating the plans, programs and activities of individuals, associations, corporations, and agencies concerned with the preservation and furtherance of Spanish-Chamorro culture;

(14) To review the work of the Department and to collaborate with it on its functions under this Chapter, pertaining to historical objects and sites, and to review such surveys and historic preservation plans as may be required, and to approve properties for nomination to the National Register as provided for in the Historic Preservation Act of 1966, Public Law 89-665.

(15) To establish within the Institute, a review board for the Guam Register of Historic Places, which meets the requirements of Public Law 89-665, to evaluate and nominate historical properties to the National Register of Historic Places pursuant to Public Law 89-665, and to order and enter historical and archaeological sites into the Guam Register of Historic Places on the basis of their value to Guam's heritage. The review board shall be appointed by the board of trustees of the Institute and no more than two (2) members of the board of trustees shall be appointed to the review board. Trustee-members of the review board may be reimbursed at the same rate as other members of the review board for official duties performed while serving on the review board. Until such time as the review board is established in accordance with this subsection, the Guam Review Board for Historic Preservation which was created by Executive Order 72-37 shall discharge the responsibilities of this subsection.

(16) To enter into contracts and to execute all instruments necessary and appropriate to carry out the purposes of the foundation;

(17) To approve all designations of particular places as places of historical interest;

(18) To establish and maintain an inventory, and certification and evaluation system for portable artifacts significant to Guam's cultural heritage; and

(19) To maintain a living war memorial commemorating the sacrifices of our heroic dead of World War II.

§ 13985.38. Development of support programs. The Institute shall develop a continuing comprehensive museum and museum activities support program in furtherance of its responsibility under § 13985.37 which shall include, but not be limited to:

- (1) Providing matching grants-in-aid to governmental or private agencies for projects which fulfill the purposes of this part;
- (2) Providing technical assistance and staff development and training opportunities; and
- (3) Assisting in the training of competent museum personnel and in the development of employment and career opportunities in museum and related fields.

§ 13985.40. Annual report. The Institute shall submit an annual report to the Governor and the Legislature. The report shall include, but

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not be limited to, the total number and amount of gifts received, payroll disbursements, contracts entered into, progress and accomplishments made during the year, and recommendations for legislative and administrative action for the preservation and furtherance of the goals and purpose of this Act.

Part V

Preservation Procedures to Guide Territorial Agencies

§ 13985.41. Declaration of legislative intent.

§ 13985.42. Responsibilities of territorial agencies

§ 13985.41. Declaration of legislative intent. The Legislature declares it to be the public policy of this territory to provide leadership in preserving, restoring, and maintaining the historic, architectural, archeological, and cultural environment of this territory and that therefore it is the purpose of this part to provide that the instrumentalities of the territory administer the historic properties under their control in a spirit of stewardship and trusteeship for future generations and conduct their activities, plans, and programs in a manner consistent with preservation and enhancement of historic properties and sites.

§ 13985.42. Responsibilities of territorial agencies. All agencies, departments, bureau, and commissions of the territory, shall:

- (1) Consult the Guam Institute of Spanish-Chamorro Culture before demolishing, altering, or transferring any property under their jurisdiction that is potentially of historical, architectural, archeological, or cultural significance, including, but not limited to, any property listed on the territorial register.
- (2) Initiate measures and procedures to provide for the maintenance, through preservation, rehabilitation, or restoration, of properties under their ownership that are listed on the territorial or national register; such measures and procedures shall comply with applicable standards prescribed by the Department.
- (3) Develop plans for the maintenance, through preservation, rehabilitation, or restoration, of historic properties under their ownership in a manner compatible with preservation objectives and which do not result in an unreasonable economic burden to public interests.
- (4) Institute procedures to assure that their plans, programs, rules, and regulations contribute to the preservation and enhancement of sites, structures, and objects of historical, architectural, archeological, or cultural significance.
- (5) Submit annually procedures required pursuant to Paragraphs (2), (3), and (4) to the Department and the Institute for review and comment.
- (6) Determine whether their existence is no longer necessary in view of the Institute's responsibilities and if so, to report same to the Institute.

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§ 13457. Guam ocean shore not to be alienated: judicial confirmation of public rights in ocean shore. No portion of the ocean shore of Guam or any interest therein vested by §§ 13454 and 13455 of this Chapter or hereafter acquired by the territory of Guam or any political subdivision thereof shall be alienated by any agencies, departments, commissions or corporations of the territory except as expressly provided by law, provided, however, the restriction on alienation shall not apply to a judicial sale of such land resulting from a condemnation action brought by the United States of America or to an exchange of said land made pursuant to § 13525(c) of this Code. The Department of Parks and Recreation, when necessary shall undertake appropriate court proceedings to protect, settle and confirm all public rights and easements vested in the territory pursuant to §§ 13454 and 13455 of this Chapter.

§ 13458. Title and rights of territory unimpaired. Nothing contained in this Chapter shall be construed to relinquish, impair or limit the sovereign title or rights of the territory of Guam in its shores as the same may exist before or after the effective date of this Chapter.

§ 13459. Liability of property owners of ocean shore. The owner or person in control of any property subject to a public easement declared a territory beach area by § 13455 of this Chapter or acquired as ocean shore for a territory recreational area pursuant to § 13456 of this Chapter shall not be liable for any injury to another person or damage to property of another resulting from a condition of the property within either area, unless the injury or damage results from a condition that he created and that he knew of or in the exercise of reasonable care, should have known was likely to cause injury to persons or damage to property.

§ 13460. Landowner declaration of continuing control of land along ocean shore: effect: failure to file.

(a) In any court proceedings involving prescriptive rights of the public over unregistered property abutting, adjacent or contiguous to the ocean shore, an instrument executed and filed as provided by Subsection (b) of this section shall be an act and declaration admissible as evidence of the intent of the owner or person in control of property to exercise dominion and control over his property.

(b) The declaration shall describe the property and shall be signed and acknowledged. It shall state that the public is granted permission to use the property, or a specifically described portion of the property, and that the public use may be for certain purposes which shall also be described. The declaration shall be filed in the Department of Parks and Recreation.

(c) Failure of the owner or person in control of property to execute and file the declaration as provided in Subsection (b) of this section shall not imply an intent to relinquish dominion and control over his property. §§ 13450-13460 added by P.L. 12-19, effective April 24, 1973; Chapter V-B of TITLE XIV renumbered from Chapter V-A and renamed "Ocean Shores: Territory Beach Areas", by P.L. 12-209, effective January 23, 1975.]

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(c) Since World War II, an increasing amount of the government-owned land abounding the sea has been alienated and lost to private ownership.

(d) Although fee title to the ocean shore may have vested in private individuals, the Legislature recognizes that over the years the public has made frequent and uninterrupted use of such ocean shore and recognizes, further, that where such use has been legally sufficient to create rights or easements in the public through dedication, prescription, grant, or otherwise, that it is in the public interest to protect and preserve such public rights or easements as a permanent part of Guam's recreational resources.

(e) The indiscriminate building of structures on the ocean shores of Guam creates a menace to the well-being of the people of the territory by increasing the pollution of tidal waters, and such construction, in addition, deprives the people of Guam of their right to untrammeled use of beach areas above the mean high watermark.

(f) Such construction destroys the natural beauty of Guam's ocean shores, one of the territory's greatest natural resources; and

(g) Finally, in spite of the enactment of certain laws and the adoption of numerous resolutions for the protection and preservation of the beach areas of Guam, the Executive Branch of the government, which has the responsibility for enforcing these laws and implementing the resolutions adopted, has failed to adequately preserve and protect that strip of said land above the mean high watermark which belongs to the people of Guam.

§ 13451. Legislative Policy. The Legislature of Guam hereby declares as the public policy of the territory of Guam that it is the public right to have unrestricted access to the ocean shores of Guam for common use by all the people of Guam, and therefore that strip of public land above the high mean watermark must be preserved and protected for all generations to assure free access to the beaches of the territory to the maximum extent, to preserve the natural beauty of Guam's beaches, and to alleviate the health problems caused by construction near tidal areas. It is, therefore, the purpose of this Chapter to forever preserve and maintain the sovereignty of the territory heretofore legally existing over the ocean shore of the territory so that the public may have the free and uninterrupted use thereof, to protect, settle and confirm the public rights to the use of the ocean shore heretofore acquired by public dedication, prescription, or otherwise and to authorize the reacquisition of the ocean shore where a portion thereof has been lost to private ownership and no public rights exist therein as a result of dedication, prescription, or otherwise.

§ 13452. Construction and interpretation. The Legislative findings and policy set forth in §§ 13450 and 13451 shall govern in the interpretation of any provision in this Chapter.

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§ 13453. Definitions: 'ocean shore', 'territory recreational area'. As used in this Chapter, unless the context requires otherwise:

(1) 'Ocean shore' means the land between the mean low waterline and a series of lines connecting angle points located at a distance of twenty-five (25) feet inland from the two (2) feet contour line as established and described by the U.S. Coast and Geodetic Survey. The angle points shall be so selected as to secure maximum parallelism of the twenty-five (25) feet setback line with two (2) feet contour.

(2) 'Territory beach area' means a land or water area, or combination thereof, under the jurisdiction of the Department of Parks and Recreation, used by the public for recreational and fishing purposes.

§ 13454. Ownership of Guam ocean shore. Ownership of the part of the ocean shore of Guam between mean high tide and extreme low tide, excepting such portions as may have been disposed of by the territory prior to January 1, 1972, is vested in the territory beach area.

§ 13455. Vesting of public rights in Guam ocean shore. All public rights or easements in any part of the ocean shore of Guam legally acquired through express dedication, implied dedication, prescription, or otherwise are confirmed and declared vested exclusively in the territory beach area. No land subject to rights vested pursuant to this section shall, after the effective date of this Act, be registered pursuant to the provisions of Article I, Chapter IV, Part IV, Division Second of the Civil Code of Guam, unless the registration is in the name of the government of Guam or clearly sets forth the existence of rights in the government of Guam.

§ 13456. Acquisition of Guam ocean shore. The Governor is hereby authorized and directed to acquire ownership of or interests in any part of the ocean shore of Guam where such lands are held in private ownership; provided, however, the Governor shall not acquire ownership of or interests in any such ocean shore if it is unregistered and frequent and uninterrupted use of the ocean shore by the public has been legally sufficient to create rights or easements in the public which are confirmed and vested pursuant to § 13455 of this Chapter, and provided further that any interest in such ocean shore acquired by the Governor which is less than full ownership thereof shall be sufficient to permit the Department of Parks and Recreation to administer the interest acquired as a territory beach area. Such acquisition from private owners shall either be by condemnation, exchange, or negotiated purchase, except that the price for such negotiated purchases shall not exceed the most recent appraised value of such property for real property taxes under Chapter IV, Title XX, Government Code of Guam, and if by exchange with government-owned property, only if the government-owned property to be exchanged has been included in the inventory of government land, or amendments thereto, provided under § 13505.1 of the Government Code of Guam.

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charged in any manner in the waters of Guam any substance which has a poisonous or intoxicating effect upon fish whether done for the purpose of taking fish or not.

§ 12307. Possession of dynamite, explosive, poisonous or intoxicating substance. It shall be unlawful for any fisherman, or person in the habit of fishing, or person who is in the water or close by the shore where fish can be taken, to possess, in the absence of satisfactory cause for possession of the same, any dynamite or other explosive, or any substance which has a poisonous or intoxicating effect upon fish.

§ 12308. Fishing equipment and methods. The use of nets, galls, hooks and other devices and methods which may result in the taking of, or damage to, fish in violation of regulations governing fishing shall be unlawful; provided, however, that such regulations shall not prohibit the traditional method of catching local fish such as manahag, tiao and stulai, by means of cast nets (lagua or talaya) or drag nets (cherchulo).

§ 12309. Illegally taken fish. It shall be unlawful for any person knowingly to take, buy, sell, transport or possess any fish, or any part thereof, contrary to the provisions of this Article or to regulations made under § 12321.

§ 12310. Fish weirs. (a) It shall be unlawful for any person to place or maintain a fish weir in the waters of Guam unless he holds a valid license from the Director. The Director may, in his discretion, issue such a license imposing such conditions on the face thereof as are necessary so as not to unjustly restrict the fishing of others nor result in the violation of provisions of this Article and supporting regulations. A fee of one dollar (\$1.00) per weir shall be paid to the Department for such a license which shall be valid for only one (1) year from the date of issuance. The owner shall remove such weir from the water within thirty (30) days after the expiration of the license unless the license is otherwise renewed.

(b) It shall be unlawful for an owner of a fish weir to leave such weir in the waters of Guam unattended for a period of fifteen (15) days.

(c) It shall be unlawful for any person to violate the conditions of any license issued under this section.

§ 12311. Taking of fish. Fish may be taken by lawful

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means at any time except as prohibited by regulation made under § 12321.

§ 12312. Unprotected wild animals. The following wild animals may be taken in the daytime:

- (a) Wild dogs.
- (b) Wild cats.
- (c) Reptiles.

(d) Rats [Amended by P.L. 8-43, effective July 30, 1965.]

§ 12313. Unprotected wild birds. The following wild birds may be taken in the daytime:

- (a) Crows.
- (b) Marianas starlings.
- (c) Woodpeckers (kingfishers).
- (d) Black-headed manikins.
- (e) European tree sparrows.
- (f) Java sparrows. [Amended by P.L. 7-29, effective May 10, 1963.]

§ 12314. Protection of wild birds. It shall be unlawful for any person to take, buy, sell, transport or possess any wild bird, or any part thereof, or wild bird eggs, except as authorized in this Article or as authorized by regulations made under § 12321.

§ 12315. Protection of wild animals. It shall be unlawful for any person to take, buy, sell, transport or possess any wild animal, or any part thereof, except as authorized in this article or as authorized by regulations made under § 12321.

§ 12316. License to take certain wild animals. Any owner or tenant of land or property that is being damaged or destroyed or is in danger of being damaged or destroyed by any protected wild animal or bird may apply to the Director for a license to take such wild animal or bird. The Director, upon satisfactory evidence of such damage or destruction, actual or threatened, may issue a revocable license for the taking of such wild animal or bird. It shall be unlawful for any person to violate the conditions of any license issued under the provisions of this section.

§ 12317. Special license. The Director may issue, free of charge, to any qualified person, a license to take and transport fish or game, at any time, for scientific or educational purposes.

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§ 12300. Definitions. For the purpose of this Article, certain terms and words are defined as follows:

(a) "Take" means hunt, pursue, catch, capture, angle, seize, kill, trap, wound, shoot in any way or by any agency or device; every attempt to do such acts or to assist any other person in the doing of or the attempt to do such acts.

(b) "Game" means all native or introduced species of wild birds or wild animals.

(c) "Fish" means any aquatic life of whatever nature, including, but not limited to, oysters, clams, mollusks, mussels, crustaceans and shell fish.

§ 12301. Authority of Department. The control and regulation of fish and game in and about Guam and the administration of this Article shall be vested in the Department.

§ 12302. Chief Conservation Officer; deputies. The provisions of this Article shall be enforced by the Director who shall be ex officio the Chief Conservation Officer, and suitable employees of the Department whom he may appoint as Deputy Conservation Officers, as well as by peace officers defined in § 851, Chapter V, Title II, Part II of the Penal Code of Guam. The Chief Conservation Officer and the Deputy Conservation Officers acting hereunder shall have the powers of peace officers to carry arms and to make arrests for violations.

§ 12303. Taking fish with explosives. It shall be unlawful to take any fish using dynamite or any other explosive.

§ 12304. Use of explosives unlawful. It shall be unlawful for any person to throw, drop or explode any dynamite or other explosive, or cause to be thrown, dropped or exploded any dynamite or other explosive in any waters of the Territory of Guam whether done for the purpose of taking fish or not, except as may be authorized pursuant to regulations. [See United States v. Borja, 191 Fed. Sup. 663 (1961)]

§ 12305. Taking fish by means of poisonous or intoxicating substance unlawful. It shall be unlawful for any persons to take any fish by means of any substance which has a poisonous or intoxicating effect upon fish.

§ 12306. Use of poison or intoxicating substance unlawful. It shall be unlawful for any person to deposit, throw, drop or discharge, or cause to be deposited, thrown, dropped or dis-

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CHAPTER IV
Game and Fish, Forestry and Conservation
ARTICLE I
Game and Fish

- § 12300. Definitions.
- § 12301. Authority of Department.
- § 12302. Chief Conservation Officer; deputies.
- § 12303. Taking fish with explosives.
- § 12304. Use of explosives unlawful.
- § 12305. Taking fish by means of poisonous or intoxicating substance unlawful.
- § 12306. Use of poison or intoxicating substance unlawful.
- § 12307. Possession of dynamite, explosive, poisonous or intoxicating substance.
- § 12308. Fishing equipment and methods.
- § 12309. Illegally taken fish.
- § 12310. Fish weirs.
- § 12311. Taking of fish.
- § 12312. Unprotected wild animals.
- § 12313. Unprotected wild birds.
- § 12314. Protection of wild animals.
- § 12315. License to take certain wild animals.
- § 12316. Protection of wild birds.
- § 12317. Special license.
- § 12318. Importation; harbor.
- § 12319. Importation of landed rifle, shotgun, or other firearm in vehicle; definition; exception.
- § 12320. Use of artificial light prohibited.
- § 12321. Regulations.
- § 12322. Confiscation.
- § 12323. Penalty.
- § 12324. Wildlife Conservation Fund.

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shall be examined and reported upon by the Director of Administration as required by law [Added by P.L. 7-45, effective July 8, 1963.]

[Original §§ 12300-12310, as added by P.L. 3-103, effective August 1, 1956, repealed by P.L. 6-87, effective March 12, 1962. New §§ 12300-12323 added by P.L. 6-87, effective March 12, 1962, and amended as noted herein.] ["Director of Finance" changed to "Administration" by editor.]

ARTICLE II Forestry

§ 12325. Improving resources: responsibility.
§ 12326. Unlicensed tree-cutting on public land prohibited.
§ 12327. Same: penalty.

§ 12325. Improving resources: responsibility. The promotion of improved planting, protection, and cutting of forest trees as a means of developing and conserving the forest resources of Guam shall be a responsibility of the Department. At the discretion of the Director, tree seeds and seedlings may be made available by the Department for planting on private as well as public lands, either on a free distribution basis or at a price to be determined by the Director. [Added by P.L. 3-103, effective August 1, 1956.]

§ 12326. Unlicensed tree-cutting on public lands prohibited. The cutting of trees on unassigned public lands without a license is prohibited. All applicants for such license shall make a written request to the Director designating the kind and amount of timber to be cut, and the use to be made thereof. When the Director is of the opinion that such cutting will not materially injure the forest resources of Guam, he shall issue a license stating the conditions of cutting, any required planting of trees, and provisions for inspection of the operation. [Added by P.L. 3-103, effective August 1, 1956.]

§ 12327. Same: penalty. Any violation of the provision of § 12326 shall be a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00), or by imprisonment of not more than six (6) months, or by both such fine and imprisonment. [Added by P.L. 3-103, effective August 1, 1956.]

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Such a license shall be valid at the discretion of the Director and shall show upon its face the period of its validity.

§ 12318. Importation: harboring. (a) It shall be unlawful for any person to import any game without first obtaining a license issued by the Director. The Director may, in his discretion, issue such a license imposing such conditions on the face thereof as are necessary for the control of such game.

(b) It shall be unlawful to harbor or maintain any protected game in captivity without first obtaining a license issued by the Director. The Director may, in his discretion, issue such a license imposing such conditions on the face thereof as are necessary for the control of such game.

(c) It shall be unlawful for any person to violate the conditions of any license issued under the provisions of this section.

§ 12319. Possession of loaded rifle, shotgun or other firearm in vehicle: exception. (a) It shall be unlawful for any person to possess a loaded rifle, shotgun or other firearm in any vehicle which is standing on, or along, or is being driven on or along any highway or other way open to the public.

(b) A rifle, shotgun or other firearm shall be deemed to be loaded, for the purpose of this section, when there is an unexpended cartridge or shell in the firing chamber or in the magazine. [Amended by P.L. 8-43, effective July 30, 1965.]

§ 12320. Use of artificial light prohibited. It shall be unlawful for any person to take any game with a spot light or any other artificial light of any kind. To be found with any spot light or any other artificial light of any kind and with any rifle, shotgun or other firearm, after sunset, in any wooded section or other place where any game may reasonably be expected, shall be prima facie evidence of violation of this section.

§ 12321. Regulations. Regulations implementing this Article shall be formulated, approved and issued in accordance with the procedure set forth in § 12007, which regulations may include but shall not be limited to the following:

- (a) To fix, close, terminate, shorten or divide open season or make open seasons conditional;
- (b) To prescribe the time of day when taking is permitted;
- (c) To regulate bag or creel limits and possession limits;
- (d) To regulate buying, selling or transporting game;
- (e) To regulate the size and type of any device used for taking and regulate any method of taking;

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ARTICLE III Wild Life Conservation

§ 12350. Reservations.
§ 12351. Fires: unlawful.

§ 12350. Reservations. The Department, in cooperation with other agencies of the government, shall control and manage land and water areas which have been set aside by the government of Guam as conservation areas. Such control and management shall have as its objective the preservation of natural soil and water conditions and native plants and animals of the general area. Consistent with this objective, the Director may establish and enforce rules for the use of conservation areas for recreational, educational and economic purposes. [Added by P.L. 3-103, effective August 1, 1956.]

§ 12351. Fires: unlawful. It shall be unlawful for any person to start or allow a fire to extend onto government land or the land of another causing damage or destruction to plant or animal life or to any property thereon. Any person violating this section shall be guilty of a misdemeanor. [Added by P.L. 3-103, effective August 1, 1956.]

ARTICLE IV Soil and Water Conservation

§ 12375. Conservation program: responsibility.
§ 12376. Same: authorization.
§ 12377. Reservation of government land.
§ 12378. Compliance with Federal programs.

§ 12375. Conservation program: responsibility. The Department of Agriculture shall be responsible for the development of a program for the conservation, development and utilization of water and soil resources, and for the control and prevention of soil erosion.

§ 12376. Same: authorization. In carrying out its responsibilities under this Article, the Department is authorized to: (a) Develop plans for the conservation of soil and water resources and the control and prevention of erosion, and to publish or otherwise bring such plans to the attention of land owners and occupiers of land in Guam.

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- (f) To regulate or restrict the places where taking is permitted;
- (g) To provide for the issuance of annual hunting and fishing licenses under this Article;
- (h) To set a fee for any license issued, however, in no event shall such fee exceed the sum of five dollars (\$5.00); and
- (i) To otherwise implement or carry out the purposes of this Article. [Amended by P.L. 7-46, effective July 8, 1963.]

§ 12322. Confiscation. Upon conviction of any offense under this Article, the court shall also order confiscated any firearm, trap, or device used in such violation and shall order the same assigned to the Director of Agriculture for destruction used under the control of the Department of Agriculture, or public sale. The net proceeds of any such sale be paid into the Wildlife Conservation Fund. [Amended by P.L. 8-43, effective July 30, 1965, and by P.L. 8-182, effective August 23, 1966.]

§ 12323. Penalty. Any person violating any provisions of this Article and supporting regulations thereof shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than two hundred fifty dollars (\$250.00), or a fine of not more than fifteen (15) days nor more than by imprisonment of not less than such fine and imprisonment. Provided that a violation of §§ 12303, 12304, 12305 and 12306 shall be punished by a fine of not less than fifty dollars (\$50.00), nor more than five hundred dollars (\$500.00) or by imprisonment of more than ninety (90) days or by both such fine and imprisonment. Provided further that if a person violating §§ 12303, 12304, or 12307 is also guilty of violating § 8935 of Chapter XI, Title IX of the Government Code of Guam, the penalty of said latter section shall control in lieu of the penalty imposed herein, thereby making such a violation of said sections a felony as set out in said § 8935. [Amended by P.L. 7-18, effective May 9, 1963, and by P.L. 7-107, effective February 28, 1964.]

§ 12324. Wildlife Conservation Fund. (a) There is hereby established a fund to be known as the "Wildlife Conservation Fund" which shall be maintained separate and apart from any other funds of the government of Guam and independent records and accounts shall be maintained in connection therewith. All license fees collected under this Article shall be deposited in said fund.

(b) The Wildlife Conservation Fund shall be used exclusively for the purposes of the administration of this Article. Said fund

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(b) Conduct surveys, investigations and research relating to soil and water conservation and the prevention and control of erosion, and to publish and disseminate information concerning such subjects.

(c) Conduct demonstrations relative to the conservation of soil and water resources and the prevention and control of erosion, and carry out preventive and control measures on government land.

(d) Cooperate with other land owners and occupiers in the development of erosion control and water resources conservation programs.

(e) Construct, improve and maintain any structure necessary for carrying out the purposes of this Article.

§ 12377. Reservation of government land. The Department shall consult with and advise the Director of Land Management with respect to the reservation of government land pursuant to § 13301 of the Government Code.

§ 12378. Compliance with Federal programs. With the approval of the Governor, the Department of Agriculture shall serve as the appropriate agency for compliance with the terms of any Federal program concerning the development of plans for conservation, development, and utilization of water and related land resources. [Article IV added by P.L. 6-84, effective March 12, 1962.]

ARTICLE V

Live Coral and Fishing Nets

- § 12380. Taking of live coral: unlawful.
- § 12381. Harvesting of coral.
- § 12382. Commercial permits.
- § 12383. Penalties.
- § 12384. Enforcement.
- § 12385. Mesh size of fishing nets: net, minimum size.

§ 12380. Taking of live coral: unlawful. It shall be unlawful to remove live coral from that area surrounding the Island of Guam extending from the shore of the island outwards to the ten fathom contour, except in accordance with this Article.

12381. Harvesting of coral. (a) The commercial harvesting of coral may be conducted by obtaining a license from the Director of Agriculture and the payment of a fee as established by the Director.

Public Law 13-83
Thirteenth Guam Legislature
(Bill 180)

AN ACT

An Act to add a new Section 12325 to Chapter IV Title XIII of the Government Code of Guam to provide for the conservation of endangered and threatened species of fish, wildlife, and plants, and to authorize an appropriation to carry out the purposes of this Act.

WHEREAS, the Government of Guam, being a territory of the United States, and self-regulatory body, adopts and agrees to uphold the "Endangered Species Act of 1973," U.S. Public Law 93-205 of the 93rd U.S. Congress, December 28, 1973; and agrees to establish its own regulatory laws to enhance and implement this Act to meet the needs of Guam and its territory pursuant to this Act; and

WHEREAS, the purposes of this Act are to provide authorization whereby the ecosystems upon which endangered species and threatened species depend may be conserved; to provide a program for the conservation of such endangered and/or threatened species; and to take such steps and agreements as may be appropriate to achieve the purposes of the Endangered Species Act of 1973, U.S. Public Law 93-205, U.S. Congress December 28, 1973; now, therefore

Be it enacted by the People of the Territory of Guam:

Section 1. A new Section 12325 is hereby added to Chapter IV Title XIII of the Government Code of Guam to read as follows:

"Section 12325. Policy. (a) It is declared to be the policy of the Government of Guam that all its departments and agencies shall seek to conserve endangered species and threatened species, and shall utilize their authority in furtherance of the purposes of this Act.

(b) Regulatory power for the purposes of this Act shall be vested in the Department of Agriculture hereinafter referred to as the 'Department', which is responsible for the management and conservation of fish, wildlife and forestry resources within the territory of Guam.

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(b) For purposes other than the sale of coral, live coral may be taken only by obtaining a license from the Director of Agriculture, such license being limited in time to a maximum of five (5) days at any given time and to a specific location from which the coral is to be taken, and for such license a fee may be charged. The Director may restrict the amount of coral to be taken under any license and may impose such other restrictions as may be necessary to insure the conservation of our coral fields.

§ 12382. Commercial permits. (a) Permits for the Commercial taking of coral may be issued by the Director of Agriculture upon the following conditions:

1. The permit must state the individual or individuals who will be taking the coral;
2. The permit must state the time, date and location from which the coral is to be taken;
3. The Director may limit each permit to a specified amount of coral to be taken, taking into account the location from which the coral is to be taken, the amount of living coral remaining and the likelihood of damage caused to the reef area by the taking of the coral.
- (b) The Director of Agriculture may, by regulation, establish a fee schedule based upon the amount of value of the coral to be taken, commercially; establish areas on Guam where no coral may be taken, and limited coral may be taken or unlimited coral may be taken, and impose any other restrictions necessary for the conservation of our coral reserves, all subject to the permits as required by this Article.

§ 12383. Penalties. Any violation of this Article or the regulations and permits issued pursuant to it shall be a misdemeanor punishable by a fine of not more than five Hundred Dollars (\$500.00) or by imprisonment of not more than six (6) months or by both such fine and imprisonment for each offense.

§ 12384. Enforcement. This Act shall be enforced primarily by the Director of Agriculture and the Conservation Officers as authorized by § 12302 of this Title and secondarily by Peace Officers defined in § 851 of the Penal Code of Guam. (§§ 12380-12384 added by P.L. 12-186, effective November 20, 1974.)

§ 12385. Mesh size of fishing nets; net, minimum size. It shall be unlawful for any person to use net (other than small scoop nets) with a stretched mesh of less than 1½ inch, provided however that:

- (a) Persons may use nets of smaller mesh to take only manahac during all months of the year. Manahac is defined as the post-larval stage (total length of less than 2½" of the rabbitfish, Family Teuthidae.)
- (b) Persons may use small mesh cast nets (salaya) for the taking of fish other than the manahac during all months of the year.

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(c) Persons catching live fish for aquarium purposes may obtain permits from the Director of Agriculture for the use of small mesh nets to capture aquarium type fish only. For purposes of this regulation, the manahac, tiao (juvenile goatfish), ce (juvenile carangid), and agnus (juvenile mullet), are not considered aquarium type fishes. Also a small scoop net is defined as a framed net, usually with a handle attached and the greatest frame opening not exceeding twelve (12) inches.

(d) Persons engaging in tuna fishing may apply for permits from the Director of Agriculture to capture live bait fish such as menis (*Spratelloides* sp.), ginyo (*Atherinidae*), tadya (*Engraulidae*), and other suitable bait fish; but will not include the agnus, tiao, ce, and manahac except as allowed by provisions of (a) and (b).

(e) That the above provisions stipulated in (a), (b), (c), and (d) are not applicable in any areas designated as conservation areas where the taking of all seasonal fishes are prohibited.

(f) The native inhabitants shall at all times enjoy their traditional rights to conduct gedi and lalago fishing.

Any violation of this Act shall be punished as prescribed in §§ 12322 and 12323 of the Government Code of Guam. (Added by P.L. 12-215, effective January 29, 1975.)

(c) It shall be the responsibility of said 'Department', to determine by rules and regulations on the basis of the best scientific and commercial data available and with consultation with other agencies, if appropriate, whether or not any species is an endangered species or threatened species because of but not limited to any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Over-utilization for commercial, sporting, scientific, or educational purposes;

(3) Diseases or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or man-made factors affecting its continued existence.

(d) Further, it shall be the responsibility of the 'Department' to promulgate rules and regulations in accordance with the Administrative Adjudication Act to improve and enhance the status of endangered species or threatened species and to protect them from all probable deleterious causes, if possible, and, to submit to the Governor of Guam plans, programs, remedies or recommendations which will carry out the purposes of this Act, and which would also appropriately achieve and utilize assistance becoming available through U.S. Public Laws.

(e) Such sums as are necessary to carry out the provisions of this Section of the Code are hereby authorized to be appropriated annually."

Approved October 27, 1975.

Agricultural Preserves

ARTICLE I

General Provisions

- § 12600(12500). Citation of Chapter.
- § 12601(12501). Definitions.
- § 12603(12503). Inclusion within agricultural preserve: 'Agricultural Land'.

ARTICLE II

Agricultural Preserves

- § 12604(12504). Establishment of preserves.
- § 12605(12505). Rules governing administration and establishment of preserves.
- § 12606(12506). Alteration of boundaries: notice to owners.
- § 12607(12507). Submission of proposal to the Territorial Planning Commission: reports.
- § 12608(12508). Removal of land from preserve: notice.
- § 12609(12509). Filing of map: keeping current.
- § 12610(12510). Utility facilities as compatible uses.

department to be of great value to the territory as an open space.

When such land is included within an agricultural preserve, the department may contract with the owner for the purpose of restricting the land to recreational or open space use and uses compatible therewith in the same manner as provided in this Chapter for land devoted to agricultural use. For the purposes of this section, where the term 'agricultural land' is used in this Chapter it shall be deemed to include land devoted to recreational use and land within a wildlife habitat area or a submerged area, and where the term 'agricultural use' is used in this Chapter it shall be deemed to include recreational and open space use.

ARTICLE II

Agricultural Preserves

§ 12604(12604). Establishment of preserves. Beginning January 1, 1974, the department, after a public hearing may establish agricultural preserves. No later than thirty (30) days prior to any such hearing the department shall publish a newspaper of general circulation within the territory, a notice, which shall include a legal description, or the assessor's parcel number of the land which is proposed to be included within the preserve. Such preserves shall be established for the purpose of defining the boundaries of those areas within which the department will be willing to enter into contracts pursuant to this act. An agricultural preserve shall consist of no less than ten (10) hectares; provided, that in order to meet this requirement, two (2) or more parcels may be combined if they are contiguous or if they are in common ownership.

The department may establish agricultural preserves of less than ten (10) hectares if it finds that smaller preserves are necessary due to the unique characteristics of the agricultural enterprises in the area, and that the establishment of preserves of less than ten (10) hectares is consistent with the general plans of the department.

An agricultural preserve may contain land other than agricultural land, but the use of any land within the preserve and not under contract shall within two (2) years of the effective date of any contract on land within the preserve restricted by zoning or other suitable means in such a way as not to be compatible with the agricultural use of the land, the use of which is limited by contract in accordance with this Chapter.

Failure on the part of the department to restrict the use of land within a preserve but not subject to contract shall not be sufficient reason to cancel or otherwise invalidate a contract.

§ 12605(12505). Rules governing administration and establishment of preserves. For the purposes of this Chapter, the de-

ARTICLE III

Contracts

§ 12611(12611). Authority of department to contract. Other owners of prime agricultural land to whom contract to be offered.

§ 12612(12612). Land on which the department may contract.

§ 12613(12613). Contracts.

§ 12614(12614). Term of contract.

§ 12615(12615). Term of twenty (20) years or more.

§ 12616(12616). Notice of nonrenewal.

§ 12617(12617). Termination of contract.

§ 12618(12618). Information furnished by landowner.

§ 12619(12619). Recording of contract.

§ 12620(12620). Enforcement of contract.

ARTICLE IV

Cancellation

§ 12621(12621). Purpose.

§ 12622(12622). Request by landowner.

§ 12623(12623). Conditions for approval.

§ 12624(12624). Assessment of land; determination of cancellation fee; payment of deferred taxes; waiver of payment; distribution of deferred taxes.

§ 12625(12625). Recording of certificate of cancellation.

§ 12626(12626). Public Hearing.

§ 12627(12627). Same: protest by other owners within the preserve.

ARTICLE V

Eminent Domain

§ 12629(12629). Public improvements within preserve.

§ 12630(12630). Voiding of contract by exercise of eminent domain.

ARTICLE I

General Provisions

§ 12600(12500). Citation of Chapter. This Chapter shall be known as the Guam Land Conservation Act.

§ 12601(12501). Definitions. As used in this Chapter, unless otherwise apparent from the context:

(a) 'Agricultural commodity' means any and all plant and animal products produced in this territory for commercial purposes.

(b) 'Agricultural use' means use of land for the purpose of producing an agricultural commodity for commercial purposes.

partment shall adopt rules governing the administration of agricultural preserves including procedures for initiating, filing and processing requests to establish agricultural preserves. Such rules shall be applied uniformly throughout the preserve, shall enumerate those uses which are to be considered to be compatible uses, and may require the payment of a reasonable application fee. The same procedure that is required to establish an agricultural preserve shall be used to disestablish or to enlarge or diminish the size of an agricultural preserve.

§ 12606(12506). Alteration of boundaries: notice to owners. In the event any proposal to disestablish or to alter the boundary of an agricultural preserve will remove land under contract from such a preserve, notice of the proposed alteration or disestablishment and the date of the hearing shall be furnished by the board or council to the owner of the land by certified mail directed to him at his latest address known to the department. Such notice shall also be furnished by first-class mail to each owner of land in that preserve which has a common boundary with the land to be removed from the preserve.

§ 12607(12507). Submission of proposal to the Territorial Planning Commission: report. Any proposal to establish an agricultural preserve shall be submitted to the Territorial Planning Commission. Within thirty (30) days after receiving such a proposal, the Territorial Planning Commission shall submit a report thereon to the department; provided, however, that the department may extend the time allowed for an additional period not to exceed thirty (30) days. The report shall include a statement that the preserve is consistent, or inconsistent, with general plans, and the department shall make a finding to such effect. Final action upon the establishment of an agricultural preserve may not be taken by the department until the report required by this section is received from the Territorial Planning Commission, or until the required thirty (30) days have elapsed and any extension thereof granted by the department has elapsed.

§ 12608(12508). Removal of land from preserve: notice. The effect of removal of land under contract from an agricultural preserve shall be the equivalent of notice of nonrenewal by the department and the department shall, at least sixty (60) days prior to the next renewal date following the removal, serve a notice of nonrenewal as provided by § 12617(12517). Such notice of nonrenewal shall be recorded as provided in § 12620(12520).

§ 12609(12509). Filing of maps keeping current. Whenever an agricultural preserve is established and so long as it shall be in effect, a map of such agricultural preserve shall be filed and kept current by the Department of Agriculture with the Department of Land Management.

§ 12610(12510). Utility facilities as compatible use. Notwith-

(c) 'Prime agricultural land' means any of the following:

(1) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one (1) animal unit per acre as defined by the United States Department of Agriculture.

(2) Land planted with fruit or nut-bearing trees, vines, bushes and crops which have a non-bearing period of less than five (5) years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than Two Hundred Dollars (\$200) per acre.

(3) Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than Two Hundred Dollars (\$200) per acre for three (3) of the previous five (5) years.

(d) 'Agricultural preserve' means an area devoted to either agricultural use, recreational use as defined in Subdivision (h) or open space use as defined in Subdivision (i) or any combination of such uses, and compatible uses as designated by the department.

(e) 'Compatible use' is any use determined by the department or by this Act to be compatible with the agricultural, recreational, or open space use of land within the preserve and subject to contract. 'Compatible use' includes agricultural use, recreational use, or open space use to unless the department finds after notice and hearing that such use is not compatible with the agricultural, recreational or open space use to which the land is restricted by contract pursuant to this Chapter.

(f) 'Department' means the Department of Agriculture.

(g) 'Director' means the Director of the Department of Agriculture.

(h) 'Recreational use' is the use of land by the public, with or without charge, for any of the following: walking, hiking, picnicking, camping, swimming, boating, fishing, hunting, or other outdoor games or sports for which facilities are provided for public participation. Any fee charged for the recreational use of land as defined in this subdivision shall be in a reasonable amount and shall not have the effect of unduly limiting its use by the public.

(i) 'Open space use' is the use or maintenance of land in such a manner as to preserve its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide essential habitat for wildlife.

§ 12603(12503). Inclusion within agricultural preserve: 'Agricultural land'. Notwithstanding any provisions of this Chapter to the contrary, the following may be included within an agricultural preserve pursuant to this Chapter:

(a) Land devoted to recreational use;

(b) A wildlife habitat area which is a land or water area designated by the department as an area of great importance for the protection or enhancement of the wildlife resources of the territory;

(c) A submerged area which is any land determined by the department to be submerged or subject to tidal action and found by the

partment of Land Management a copy of the contract, which shall describe the land subject thereto, together with a reference to the map showing the location of the agricultural preserve in which the property lies. From and after the time of such recordation such contract shall impart such notice thereof to all persons as is afforded by the recording laws of this territory.

§ 12623(12523). Enforcement of contract. The territory or landowner may bring any action in court necessary to enforce any contract including but not limited to, an action to enforce the contract by specific performance or injunction.

ARTICLE IV Cancellation

§ 12622(12522). Purpose. It is hereby declared that the purpose of this Article is to provide relief from the provisions of contracts entered into pursuant to this Chapter only when the continued dedication of land under such contracts to agricultural use is neither necessary nor desirable for the purposes of this Chapter.

§ 12623(12523). Request by landowner. A contract may not be cancelled except pursuant to a request by the landowner, and as provided by this Article.

§ 12624(12524). Conditions of approval. The landowner may petition the department for cancellation of any contract as to all or any part of the subject land. The department may approve the cancellation of a contract only if it finds:

- (a) That the cancellation is not inconsistent with the purposes of this Chapter; and
 - (b) That cancellation is in the public interest.
- The existence of an opportunity for another use of the land involved shall not be sufficient reason for the cancellation of a contract. A potential alternative use of the land may be considered only if there is no proximate, noncontracted land suitable for the use to which it is proposed the contracted land be put.
- The uneconomic character of an existing agricultural use shall likewise not be sufficient reason for cancellation of the contract. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable agricultural use to which the land may be put.

§ 12625(12525). Assessment of land: determination of cancellation fee; payment of deferred taxes; waiver of payment; distribution of deferred taxes.

(a) Prior to any action of the department giving tentative approval to the cancellation of any contract, the assessor shall determine the full

standing any determination of compatible uses by the department pursuant to this Chapter, unless the department after notice and hearing makes a finding to the contrary, the erection, construction, alteration, or maintenance of electric, water, or communication utility facilities are hereby determined to be compatible uses within any agricultural preserve. No land occupied by electric, water, or communication utility facilities shall be excluded from an agricultural preserve by reason of such use.

ARTICLE III Contracts

§ 12611(12511). Authority of department to contract. The department may, by contract, limit the use of agricultural land for the purpose of preserving such land pursuant and subject to the conditions set forth in the contract and in this Chapter. A contract may provide for restrictions, terms, and conditions, including payments and fees, more restrictive than or in addition to those required in this Chapter.

§ 12612(12512). Other owners of prime agricultural land to whom contract to be offered. If such a contract is made with any landowner, the department shall offer such a contract under similar terms to every other owner of agricultural land within the agricultural preserve in question.

However, except as required by other provisions of this Chapter, the provisions of this section shall not be construed as requiring that all contracts affecting land within a preserve be identical, so long as such differences as exist are related to differences in location and characteristics of the land, pursuant to uniform rules adopted by the department.

§ 12613(12513). Land on which the department may contract. The department may not contract with respect to any land pursuant to this Chapter unless the land: (a) is devoted to agricultural use; (b) is located within an area designated as an agricultural preserve.

§ 12614(12514). Contracts. Every such contract shall:

- (a) Provide for the exclusion of uses other than agricultural and other than those compatible with agricultural use, for the duration of the contract;
- (b) The binding upon, and inure to the benefit of all successors in interest of the owner. Whenever land under a contract is divided, the owner of any parcel may exercise, independent of any other owner of a portion of the divided land, any of the rights of the owner of a portion of the divided land, and any of the rights of the owner in the original contract, including the right to give notice of nonrenewal and to petition for cancellation. The effect of any such action by the owner of a

cash value of the land in accordance with § 19312, 19312.1 and 19312.2 of the Government Code as though it were free of the contractual restriction imposed pursuant to § 19312.4 of the Government Code. The assessor shall then determine the amount of deferred taxes and certify same to the department as the cancellation valuation of the land for the purpose of determining the cancellation fee.

(b) Prior to giving tentative approval to the cancellation of any contract the department shall determine and certify to the landowner the amount of the cancellation fee which he must pay to the government of Guam, as deferred taxes upon cancellation. That fee shall be an amount equal to fifty percent (50%) of the cancellation valuation of the property.

(c) If it finds that it is in the public interest to do so the department may waive any such payment or any portion thereof, or may make such payment or a portion thereof contingent upon the future use made of the land and its economic return to the landowner for a period of time not to exceed the unexpired period of the contract, had it not been cancelled, provided:

- (1) The cancellation is caused by an involuntary transfer or change in the use which may be made of the land and the land is not immediately suitable, nor will be immediately used, for a purpose which produces a greater economic return to the owner;
- (2) The department has determined it is in the best interests of the program to conserve agricultural land use that such payment be either deferred or not required.

(d) When deferred taxes required by this section are collected, they shall be transmitted by the territorial treasurer to the General Fund.

§ 12626(12526). Recording of certificate of cancellation. Upon tentative approval of the cancellation petition, the Department of Agriculture shall record in the Department of Land Management a certificate which shall set forth the name of the owner of such land at the time the contract was cancelled with the amount of the cancellation fee certified by the department as being due pursuant to this Article, the contingency of any waiver or deferment of payments, and a legal description of the property, from the date of recording of such certificate the contract shall be finally cancelled and, to the extent the cancellation fee has not yet been paid, a lien shall be created and attached against the real property described therein and any other real property owned by the person named therein as the owner. Such lien shall have the force, effect and priority of a judgment lien. Nothing in this section or § 12625(12525) shall preclude the department from requiring payment in full of the cancellation fee prior to the cancellation becoming effective.

In no case shall the cancellation of a contract be final until the notice of cancellation is actually recorded as provided in this section. Notwithstanding any other provisions of law, any payments required by § 12625(12525) shall not create nor impose a lien or charge on the land as to which a contract is cancelled except as herein provided.

parcel created by the division of land under contract shall not apply to the owners of the remaining parcels and shall have no effect on the contract as it applies to the remaining parcels of the divided land.

§ 12615(12515). Term of contract. Each contract shall be for an initial term of no less than ten (10) years. Each contract shall provide that on the anniversary date of the contract, or such other annual date as specified by the contract, a year shall be added automatically to the initial term unless notice of nonrenewal is given as provided in § 12617(12517).

§ 12616(12516). Term of twenty (20) years or more. Notwithstanding the provisions of § 12515, if the initial term of the contract is standing the provisions of § 12515, the contract may provide that on the for twenty (20) years or more the contract may provide that on the anniversary date of the contract or such other annual date as specified by the contract beginning with the anniversary date on which the contract will have an unexpired term of nine (9) years, a year shall be added automatically to the initial term unless notice of nonrenewal is given as provided by § 12617(12517).

§ 12617(12517). Notice of nonrenewal. If either the landowner or the department desires in any year not to renew the contract, that party shall serve written notice of nonrenewal of the contract upon the other party in advance of the annual renewal date of the contract. Unless such written notice is served by the landowner at least ninety (90) days prior to the renewal date, the contract shall be considered renewed as provided in § 12615(12515) or § 12616(12516).

Upon receipt by the owner of a notice from the department of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The department may, at any time prior to the renewal date, withdraw the notice of nonrenewal. Upon request by the owner, the department may authorize the owner to serve a notice of nonrenewal on a portion of the land under a contract.

§ 12618(12518). Termination of contract. If the department or the landowner serves notice of intent in any year not to renew the contract, the existing contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract, as the case may be.

§ 12619(12519). Information furnished by landowner. The landowner shall furnish the department with such information as it shall require in order to enable it to determine the eligibility of the land involved.

§ 12620(12520). Recording of contract. No later than twenty (20) days after the department enters into a contract with a landowner pursuant to this Chapter, the department shall record with the De-

RECEIVED

FEB 11 1974

TWELFTH GUAM LEGISLATURE
1974 (SECOND) Regular Session

ATTORNEY GENERAL'S OFFICE

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 675, "An Act relative to the establishment of the Guam Energy Office and authorizing an appropriation for such purposes", was on the 25th day of January, 1974, duly and regularly passed.


F. T. RAMIREZ
Speaker

ATTESTED:


G. M. BAMBA
Legislative Secretary

This Act was received by the Governor this 29th day of January, 1974 at 4:25 o'clock P.M.


KEITH L. ANDREWS
Attorney General of Guam

APPROVED:


CARLOS G. CAMACHO
Governor of Guam

DATED: FEB 7 1974
3:35 p.m.

Public Law
12-100

§ 12630 (12530)

GOVERNMENT CODE

Upon the payment of the cancellation fee or any portion thereof the Department of Agriculture shall record with the Department of Land Management a written certificate of the release in whole or in part of the lien.

§ 12627(12527). Public hearing. No contract may be cancelled until after the department has given notice of, and has held, a public hearing on the matter. Notice of the hearing shall be published in a newspaper of general circulation for ten (10) days prior to such hearing, and shall be mailed to each and every owner of land under contract, and any portion of which is situated within the same agricultural preserve and within one (1) mile of the exterior boundary of the land upon which the contract is proposed to be cancelled.

§ 12628(12528). Same: protest by other owners within the preserve. The owner of any property located in the agricultural preserve may protest such cancellation to the department conducting the hearing.

ARTICLE V

Eminent Domain or other Acquisition

§ 12629(12529). Public improvements within preserve. (a) It is the policy of the territory to avoid, whenever practicable, the location of any territorial public improvements and any improvements of public utilities, and the acquisition of land therefor, in agricultural preserves.

(b) It is further the policy of the territory that whenever it is necessary to locate such improvement within an agricultural preserve, such improvement shall, whenever practicable, be located upon land other than land under a contract pursuant to this Chapter.

(c) It is further the policy of the territory that any agency or entity proposing to locate such an improvement shall, in considering the relative costs of parcels of land and development of improvements, given consideration to the value to the public of land, and particularly prime agricultural land within an agricultural preserve.

§ 12630(12530). Voiding of contract by exercise of eminent domain. When any action in eminent domain for the condemnation of the fee title of an entire parcel of land subject to a contract is filed or when such land is acquired in lieu of eminent domain for a public improvement by a public agency or whenever there is any such action or acquisition by the Federal government or power of the Federal government, such contract shall be deemed null and void as to the land actually being condemned or acquired as of the date the action is filed and for the purposes of establishing the value of such land, the contract shall be deemed never to have existed.

Upon termination of such a proceeding, the contract shall be null and void for all land actually taken or acquired.

1974 SUPPLEMENT

§ 12630 (12530)

When such an action to condemn or acquire less than all of a parcel of land subject to a contract is commenced, the contract shall be deemed null and void as to the land actually condemned or acquired and shall be disregarded in the valuation process only as to the land actually being taken, unless the remaining land subject to contract will be adversely affected by the condemnation, in which case the value of that damage shall be computed without regard to the contract.

When such an action to condemn or acquire an interest which is less than the fee title of an entire parcel or any portion thereof, of land subject to a contract is commenced, the contract shall be deemed null and void as to such interest and for the purpose of establishing the value of such interest only shall be deemed never to have existed, unless the remaining interests in any of the land subject to the contract will be adversely affected, in which case the value of that damage shall be computed without regard to the contract.

The land actually taken shall be removed from the contract. Under no circumstances shall land be removed that is not actually taken, except that when only a portion of the land or less than a fee interest in the land is taken or acquired, the contract may be cancelled with respect to the remaining portion or interest upon petition of either party and pursuant to the provisions of Article IV.

For the purposes of this section, a finding by the department that no authorized use may be made of the land if the contract is continued on the remaining portion or interest in the land may satisfy the requirements of Subdivisions (a) and (b) of § 12622(12522). (Added by P.L. 12-225, effective February 4, 1975; Sections, renumbered from §§ 12500-12630 to §§ 12600-12630 and Chapter VI changed to Chapter VII by the Editor.)

12-100

TWELFTH GUAM LEGISLATURE
1974 (SECOND) Regular Session

Bill No. 675

Introduced by

Committee on
Resources, Develop-
ment and Agriculture
by request.

AN ACT RELATIVE TO THE ESTABLISHMENT
OF THE GUAM ENERGY OFFICE AND AUTHORI-
ZING AN APPROPRIATION FOR SUCH PURPOSES.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. This Act shall be known as the "Guam Energy
Office Act".

Section 2. Statement of policy and purpose. It is hereby
declared to be the public policy of the territory of Guam
that it is essential that there exists a Guam Energy Office
to mobilize local resources to work with the Federal Government
and the private sector in order to best allocate fuels avail-
able to the territory of Guam; and to determine which energy
conservation measures and practices best slow the rate of
the growth of energy consumption, assure adequate supplies of
energy and fuels for necessary uses, reduce energy, waste,
preserve natural resources and protect the environment.

Section 3. Guam Energy Office: establishment of. (a) There
is hereby established within the government of Guam as a
separate and independent office, the Guam Energy Office herein-
after referred to as the "Office".

(b) The office shall have an Administrator and Assistant
Administrator who shall be appointed by the Governor by and
with the advice and consent of the Legislature and such other
officers and employees as may be necessary to carry out its
functions under this Act provided, however, that all the
officers and employees of the office shall comprise of

existing personnel of the government of Guam who are temporarily
assigned or loaned to the office.

Section 4. Same: duties. The functions and responsibilities
of the office are as follows:

(1) To implement the "Emergency Petroleum Allocation Act
of 1973" and regulations adopted pursuant to said Act;

(2) To receive, hold, expend, or transfer Federal and
local funds, subject to applicable Federal and local rules;

(3) To enforce or delegate to the proper agency involved
the power to enforce laws enacted by the Federal Government,
or the government of Guam relative to petroleum products
price stabilization;

(4) To review present statutory authority, regulations,
procedures and programs in order to determine what changes
may be required to assure conformity with the policies and
purposes of this Act and to report its findings, with
recommendations for necessary changes to the Governor and to
the Legislature at the earliest possible date;

(5) To study and review energy conservation measures and
practices which reduce energy consumption thereby assuring
adequate supplies of energy and fuels for necessary uses and
to disseminate such information to the people of the territory
of Guam.

Section 5. Same: rules and regulations. The office
shall adopt reasonable rules and regulations governing its
operations, said rules and regulations to be promulgated in
accordance with the requirements set forth in the Administrative
Adjudication Law (Section 2400 et seq. of the Government Code
of Guam).

Section 6. There is hereby authorized to be appropriated
from any available funds in the Unappropriated Surplus of the
General Fund the sum of One Hundred Thousand Dollars (\$100,000

1 for the operation of the Guam Energy Office for the fiscal year
2 ending June 30, 1974. *Amended by P.L. 13-70*
3 → Section 7. The Guam Energy Office shall cease to exist
4 when the purposes and objectives of this Act have been
5 accomplished, subject, however, to the further condition that the
6 office and powers granted it pursuant to this Act shall terminate
7 not later than one (1) year following the effective date of this
8 Act.

9 Section 8. The reporting date for the Ad Hoc Committee
10 which was created by Public Law 11-208 is hereby extended to
11 August 15, 1974.

12 Section 9. The reporting date for the Political Status
13 Commission which was created by Public Law 12-17 is hereby
14 extended to September 30, 1974.

71 STAT.] PUBLIC LAW 86-664—JULY 14, 1960

Public Law 86-664

AN ACT

To grant to the Government of Guam certain filled lands, submerged lands, and
tidelands.

*Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled, That there is hereby
granted to the Government of Guam, without reimbursement, all of
the right, title, and interest of the United States in and to all of those
lands, including filled lands, submerged lands, and tidelands, together
with all structures and improvements thereon, located in Guam, and
constituting a portion of the area known as the Paseo de Susana,
more particularly described as follows:*

*Beginning at a point, the coordinates of which are east 50,368.842
meters, north 50,439.428 meters, Land and Claims Commission 1945
triangulation system, said point of beginning being also on the mean
lower low water line--*

*thence due south a distance of 30.78 meters;
thence north 81 degrees 35 minutes west a distance of 17.48
meters;
thence north 81 degrees 44 minutes west a distance of 11.20
meters;
thence north 81 degrees 44 minutes west a distance of 11.20
meters;
thence north 78 degrees 15 minutes west a distance of 18.01
meters;
thence north 79 degrees 56 minutes west a distance of 14.05
meters;
thence north 73 degrees 20 minutes west a distance of 29.01
meters;
thence north 72 degrees 57 minutes west a distance of 18.85
meters;
thence north 60 degrees 57 minutes west a distance of 13.09
meters;
thence north 72 degrees 55 minutes west a distance of 22.27
meters;
thence north 60 degrees 03 minutes west a distance of 11.14
meters;
thence north 44 degrees 56 minutes west a distance of 10.93
meters;
thence north 80 degrees 07 minutes west a distance of 6.29
meters;
thence north 78 degrees 50 minutes west a distance of 12.03
meters;
thence north 72 degrees 29 minutes west a distance of 17.11
meters;
thence south 86 degrees 48 minutes west a distance of 13.25
meters;
thence south 73 degrees 58 minutes west a distance of 17.53
meters;
thence south 73 degrees 07 minutes west a distance of 11.10
meters;
thence south 64 degrees 44 minutes west a distance of 13.05
meters;
thence south 74 degrees 52 minutes west a distance of 19.69
meters;*

GUAM TERRITORIAL SEASHORE PROTECTION COMMISSION

Section 1. Authority. These Rules and Regulations are promulgated under the authority of Chapter V-A, Title XIV, Public Law 12-103, Section 13415.

Section 2. Purpose. The purpose of these Rules and Regulations is to govern the meetings and proceedings of the Guam Territorial Seashore Protection Commission, acting pursuant to the Legislative authority mentioned above.

Section 1. The official name of the Commission shall be the
Guam Territorial Seashore Protection Commission.

Section 2. Official Address. The official address of the Guam Territorial Seashore Protection Commission shall be c/o Government of Guam, Agana, Guam.

Section 3. Place of Meeting. The Commission will hold its regular meeting at a location to be determined by a majority vote at any regular meeting.

Section 1. Commission Creation, Membership and Compensation.

The Commission shall consist of the seven (7) members of the Territorial Planning Commission and the members shall hold office so long as they remain members of the Territorial Planning Commission. Commission members shall serve without compensation except that each member shall be paid a per diem of twenty-five dollars (\$25.00) for each day's attendance at a meeting of the Commission. Each member shall also be allowed actual expenses incurred in the discharge of his duties.

Section 2. Powers and Duties. The Commission may:

- (a) Accept grants, contributions and appropriations;
- (b) Employ and fix the compensation, in accordance with law, of such professional, clerical and other assistants as may be necessary;

11-141

Conditions

From and at a point, the coordinates of which are east 39,392.7562
 meters, north 50,374.616 meters, Land and Claims Commission 1945
 Primitivization Survey, said point being common to the boundary of
 Paseo de Susunan and described as a point on the seaward side of the
 Agrina Boat Basin wall, said point also being on the mean lower low
 water line—

thence along said wall, being also along said mean lower low
 water line, south 88 degrees 53 minutes west a distance of 4.09
 meters;
 thence north 04 degrees 13 minutes west a distance of 15.35
 meters;
 thence south 89 degrees 22 minutes west a distance of 17.38
 meters;
 thence leaving said wall and mean lower low water line south
 12 degrees 17 minutes west a distance of 18.15 meters;
 thence south 00 degrees 21 minutes east a distance of 1.30 meters
 to a point on the northerly right-of-way line of Marine Drive;
 thence westerly along said right-of-way line north 88 degrees
 04 minutes west a distance of 207.11 meters;
 thence leaving said northerly right-of-way line north 01 degrees
 56 minutes east a distance of 126.65 meters;
 thence south 88 degrees 04 minutes east a distance of 309.38
 meters, more or less, to a point on the boundary of Paseo de
 Susunan and being on the mean lower low water line;
 thence southerly and westerly along said mean lower low water
 line and Agrina Boat Basin wall to the point of beginning;
 containing an area of 83,695.52 square meters, or 8.93 acres, more or
 less.

SEC. 3. The property conveyed by section 2 of this Act shall be
 subject to the condition that the property shall be used solely for civil,
 park, and recreational purposes, and as a boat basin, and if it shall
 ever cease to be used for such purposes, or if the Government of Guam
 should ever sell or otherwise dispose of such land or any part thereof,
 title thereto shall revert to the United States, which shall have the
 right of immediate entry thereon.

Approved July 14, 1960.

Approved July 14, 1960.

Public Law 86-665

AN ACT

To amend chapter 37 of title 38, United States Code, to extend the veterans' guaranteed and direct loan program for two years.

**Veterans.
Loan program.
72 Stat. 1205.**

Condition

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(c) (1) Through coordination and assistance with other Government agencies, acquire lands, waters, interests therein with the boundaries of the Seashore Reserve, by donation, purchase with donated or appropriated funds, by exchange for government land, or transfer;

(2) Grant land use permits.

(3) Terminate a right of use and occupancy retained pursuant to this subsection upon a determination that such use and occupancy is being exercised in a manner not consistent with the purpose of this Chapter, and upon tender to the holder of the right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

(d) Contract for any professional services if such work or services cannot satisfactorily be performed by its employees;

(e) Be sued and sue to obtain any remedy to restrain violations of this Act. Upon the request of the Commission, the Attorney General shall provide necessary legal representation.

(f) Adopt any regulations or take any action it deems reasonable and necessary to carry out the provisions of Chapter V-A, Section 13415, (Public Law 12-108), but no regulations shall be adopted without prior public hearing.

(g) Elect a Chairman;

(h) Appoint an Administrator who shall not be a member of the Commission;

ARTICLE IV. OFFICERS

Section 1. Regular Officers. Regular officers of the Commission shall be Chairman, Vice-Chairman and Administrator.

Section 2. Additional Officers and Assistant Officers. The Commission may, by Resolution, appoint such additional officer or officers, or assistant officer or officers, establish the terms of office of such officers, and define the duties of such officers as the Commission may by such Resolution determine necessary or desirable.

Section 3. Terms of Office. The terms of office for the Chairman and Vice-Chairman shall be concurrent with their terms of office as members of the Territorial Planning Commission. The term of office of the Administrator shall serve at the pleasure of the Commission.

Section 4. Vacancies. Should the office of Chairman and Vice-Chairman be vacant, the Commission shall fill the vacancy by election.

Section 5. Duties of Officers. The Chairman shall preside at all meetings of the Commission. At such meetings, he shall submit such proper information and recommendations to the Commission as he may deem proper concerning the policies, administration, and other affairs of the Commission. The Chairman shall sign all contracts and other important documents and letters of the Commission upon approval of the Commission in accordance with Article VI, Section 4, of these Rules and Regulations.

The Vice-Chairman shall perform the duties of the Chairman in the absence or incapacity of the Chairman.

The Administrator shall serve as administrative officer of the Commission, shall be directly responsible to it, and subject thereto shall have complete control and responsibility for the execution of the Commission policies, the administration of its affairs, and the furnishing of such technical and clerical personnel, and office facilities as may be reasonably necessary.

Section 6. The officers of the Commission shall perform such other duties and functions as may from time to time be appropriately required by the Commission or the Rules and Regulations.

ARTICLE V. INTERIM PERMIT CONTROL

Section 1. General Provisions. The Commission shall adopt a permit application form which shall conform to the General provisions as enumerated in Section 13417 (a), Public Law 12-108, Seashore Reserve Act, and all other applicable laws governing the area defined as the Seashore Reserve.

Section 2. Permit Procedure.

(a) Acceptance of Application. Applications for the Territorial Seashore Protection Commission shall meet all current requirements of the Territorial Planning Commission and Public Law 12-108. Completed applications, with seven (7) additional copies, shall be submitted to the Administrator of the Commission in accordance with the Territorial Planning Commission and Public Law 12-108 requirements.

(b) Filing Fee. The Commission shall require a reasonable filing fee which shall be determined by the estimated cost of the project.

(c) After their acceptance by the Administrator, applications shall be transmitted to the Territorial Seashore Protection Commission. The Commission shall then hold at least one (1) hearing thereon in the municipal district where the project is located, such districts are described in Chapter I of Title XIV of the Government Code, notice of time and place of which shall be given by at least one (1) publication in a newspaper of general circulation, at least ten (10) days before the day of said hearing, and by mail to the Commissioner of the municipal district concerned. The hearing shall be no less than 21 nor more than 90 days after the date on which application is filed. All applications should be submitted and reviewed by the Subdivision and Development Review Committee prior to public hearing. All comments and evaluations of the Subdivision and Development Review Committee should be presented during the public hearing.

(d) The Commission shall act upon the application for permit within sixty (60) days after the conclusion of the hearing.

ARTICLE VI. MEETING

Section 1. Regular Meetings. Meetings shall be held on the second and fourth Thursdays of the month. If such meeting falls on a legal holiday, the meeting shall be on the subsequent Tuesday.

Section 2. Special Meetings. Special meetings shall be held at such time and places as the Commission may determine, or may be called by the Chairman at such time and place as he may determine, and must be called by him upon the written request of three or more members of the Commission filed with the Administrator. Notice of such special meetings must be given at least 24 hours prior to the time of said meeting, and is to be given in writing, or in such form as the Chairman may direct. Any and all business of the Commission may be transacted at such a special meeting.

Section 3. Quorum. Four (4) members of the Commission shall constitute a quorum for the purpose of conducting its business, exercising its powers and for all other purposes.

Section 4. Voting. Every official act taken by the Commission shall be adopted by four affirmative votes. Only positive motions will be entertained.

Section 5. Order of Business. At the regular meetings of the Commission, the following shall be the order of business:

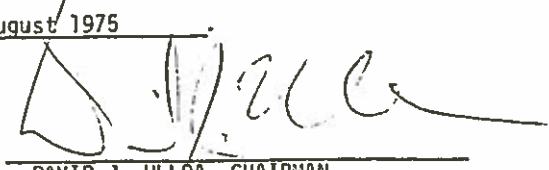
- (1) Notation of attendance;
- (2) Consideration of Seashore Protection Commission applications, governed under the general provisions, Section 1, Article V of these Rules and Regulations;
- (3) Miscellaneous matters;
- (4) Approval of Minutes not previously approved;
- (5) Adjournment.

Section 6. Parliamentary Procedure. The Rules. Parliamentary procedure set forth in Robert's Rules of Order shall govern all meetings of the Commission except as otherwise provided.

ARTICLE VII. AMENDMENTS

These Rules and Regulations may be amended by the Commission at any regular or special meeting by a majority vote, provided that 10 days public notice is provided.

Adopted on the 14th day of August 1975


DAVID J. ULLOA, CHAIRMAN

I certify that the foregoing is a true copy of the Rules and Regulations of the Guam Territorial Seashore Protection Commission as promulgated, effective August 14, 1975. These Rules and Regulations were in effect August 14, 1975 and continue in effect as of the date of this certification.


ESTEBAN U. TORRES, ADMINISTRATOR

APPENDIX NO. 12 BACKGROUND MATERIALS

A Summary of the Reports Completed by the Bureau of Planning, 1976-77, for Use as Background Data

Analysis of Results, CZM Land-Use Opinion Survey

An analysis of the results obtained from a survey questionnaire distributed to 931 residents. Attitudes concern seashore development, recreational facilities, property ownership and citizen participation. (CZM)

Atlas of the Reefs and Beaches of Guam

An investigation of the coast and shallow reefs of Guam, including locations and geologic descriptions of reef platforms, rocky shorelines, and locations, extent, slope and composition of beaches. This study completely maps the shoreline and shallow reefs of Guam. (CZM)

An Economic Survey of Guam's Business Community

An analysis of the results obtained from a survey questionnaire distributed to small businesses on Guam. Statistical data, discussion and recommendations address physical and human infrastructure, government and private activities, economic situation, social conditions and community environment, investment opportunities, large and small business comparison and ethnic group comparison.

The Extent of Coral Shell and Algal Harvesting in Guam Waters

A discussion of living marine resources, other than fish, which are being harvested from shallow offshore areas of Guam. Includes extensive lists of exploited species, location maps, existing legislation, and recommendations for resource development and preservation requirements. (CZM)

Future Power Production and Transmission Alternative Plans, Guam USA

A description of existing private, federal and GovGuam facilities for the production of power; including power plants, fuel lines, fuel tanks, transmission lines, etc. Future expansion needs and locations are discussed and mapped. (CZM)

Guam Coastal Planning Bibliography

A bibliography of most written research materials concerning Guam, arranged according to subject matter in a numbered code system. Includes authors, number of pages, dates, cross references and location of available copies. (CZM)

Guam Inventory of Planning Information

An inventory of plans, reports, surveys and data bases about Guam, produced from 1970 to 1976. Includes a short description of each published source. Entries are arranged by subject areas in three volumes with appendices.

Guam: The United States Developing Territory

A discussion and illustrative report of Typhoon Pamela damages. Outlines programs for post-typhoon upgrade and restoration, government operations, rehabilitation and economic development, community development and conclusions.

A Guide to the Changes in Laws Relative to Land and Water Use, 1969-76

A presentation of changes in Guam's code of laws relative to land and water use during this time period. (CZM)

Growth Policy for Guam

A discussion of the factors relating to the development of Guam's economy. General policies discuss environment, culture and lifestyles, agriculture and light industry.

Housing Element, Residential Development Policy Report

An extensive discussion of housing on Guam for inclusion in the CDP. Chapters address problems, current housing stock, Guam's households today and tomorrow, residential development opportunities and constraints, policy alternatives and recommendations.

An Inventory of Present and Projected Coastal Land and Water Uses on Guam

An identification of Guam's existing coastal water uses, such as recreational, waste disposal and others. Includes extensive maps and tables of existing and proposed seashore activities by categories and projects, with appendix maps. (CZM)

Mechanisms for Land-Use Control on Guam

A compilation of data pertaining to regulatory land-use controls on Guam with discussion and flow charts of permitting procedures for such activities as zoning variances, building permits, subdivisions and PUDs, COE permits, agricultural leases; with actual permit forms and guidelines included in the report. (CZM)

Overall Economic Development Plan

A discussion of development proposals for the federal Economic Development Authority. Programs which are vital to Guam's economy include those for agriculture, tourism, Commercial Port, Guam International Air Terminal and water resources. A summary of EDA related, specific projects follows and exhaustive discussion of the various components of Guam's economy. Major chapters address population, labor force and the economic potentials and constraints affecting the various sectors of the economy.

Population Projections

A brief report containing methodology, tables and graphs of population projections for Guam to the Year 2000. Three different projections are compared to give a reasonable estimate of population growth.

Selected Data from Guam's Visitor Survey

A compilation of statistical data obtained from a survey questionnaire distributed to tourists, with 1,300 respondents providing the data base. Data addresses expectations, ratings of recreational and entertainment facilities, expenditures, length of stay, visitor profiles and preferred attractions.

Street Atlas of Guam

The first official reference map of all streets on the island, including location of major public-use facilities. This document was published as a guide for government agencies and made available for sale to the public sector by the printing agency and private enterprise.

A Summary of Major Federal Land Holdings in the Territory of Guam

An analysis and listing of locations, areas and uses of federal lands on Guam with appendices and a key map. (CZM)

Forthcoming Studies Being Developed by the Bureau of Planning, to be Completed Prior to December, 1977.

* Aquaculture Development on Guam

Will analyze the potential for various kinds of aquaculture development on Guam with discussion of developable species, environmental impacts, and necessary water quality controls. Areas for potential aquaculture development will be mapped. (CZM)

* Beach Access Study

Will describe access to all beaches of Guam, delineate problem areas and identify properties owned by private interests, GovGuam and the Federal Government. (CZM)

Economic Development Plan

Following the Growth Policy and the OEDP as major economic reports, this element of the CDP will further address economic growth potentials for the territory. The emphasis will be on utilization of economic and statistical methodology to more accurately assess trends and outline a five-year plan for economic growth, as previous plans were exhaustive studies of the current economic situation.

* Interim Disaster Preparedness Plan

A discussion of inter-agency response procedures and mechanisms for disaster preparedness in relation to hazard analysis studies for such potential disasters as typhoons, floods and earthquakes.

* Inventory of Pristine Marine Ecological Communities

Will describe and map those marine areas that are essential for the protection of endangered and threatened species or are untouched representatives of characteristic Guam marine ecological communities. (CZM)

* Inventory of Pristine Terrestrial Ecological Communities

Will provide area descriptions, species lists and maps of terrestrial areas that are essential for the protection of endangered and threatened species or are unique or relatively untouched representatives of characteristic Guam terrestrial ecological communities. (CZM)

Phase II, Reef Study

Will provide area sedimentation studies, transects of sensitive and control areas; and discuss larval development of marine species in coastal wetland areas. (CZM)

Seashore Reserve Plan

Will provide an examination of the land uses, physical characteristics, cultural considerations, problems, enforcement, management and legislation affecting portions of the Seashore Reserve as delineated in the Community Design Element of the CDP. (CZM)

Social Element

Will discuss and analyze the dimensions and problems affecting health services and facilities, changing lifestyle and language, the educational system, drug abuse; and provide conclusions and recommendations for agency coordination, program emphasis and public action. This plan will provide an element of the CDP.

* Sources and Projections of the Availability of Minerals for Engineering Construction in Guam

Will analyze the best sources of aggregates, fine sand and basalt for construction and pavement on Guam. (CZM)

Supplement to the Guam Coastal Planning Bibliography, 1977

Will add entries, produced in 1976 and 1977, to the 1976 bibliography. (CZM)

* Reports completed