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Approved: Fernando Chardon
Secretary of State

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Commonwealth of Puerto Rico
DEPARTMENT OF PUBLIC WORKS
Area of Flood Control And
Maintenance of Beaches And Rivers
P. O. Box 8218
San Juan, Puerto Rico, 00910

RULES AND REGULATIONS

To regulate the extraction of materials from the earth's crust.

ARTICLE 1 - LEGAL BASE

The Secretary of Public Works under the authority conferred to him by Article 15 of Law 132 approved June 25, 1968, publishes this document to regulate the granting of permits to extract sand, gravel, stone, silica, calcite, clay, or any other similar component of the earth's crust, for commercial use, from public or private properties, and which are not regulated as economic minerals within the geographic limits of Puerto Rico, with the purpose of implementing the aforementioned law.

ARTICLE 2 - DEFINITIONS

Section 2.1 - Components of the earth's crust

All materials, in compact or loose state, which are not regulated as economic minerals. They include, but are not limited to, sand, gravel, stone, earth, silica, calcite, clay, and any other similar components.

Section 2.2 - Department of Public Works

The Department of Public Works of the Commonwealth of Puerto Rico, hereinafter called the DEPARTMENT.

Section 2.3 - Secretary of Public Works

The Secretary of Public Works of the DEPARTMENT, hereinafter called the SECRETARY.

Section 2.4 - Permit

Written authorization from the Secretary of Public Works to any natural or legal person, or group of persons to make excavations, removals, or dredgings of the components of the earth's crust for commercial use.

Section 2.5 - Petitioner

Any person, natural or legal, or group of persons requesting a permit.

Section 2.6 - Law

Law number 132 approved on June 25, 1968, hereinafter called the LAW.

Section 2.7 - Quarry

Any site on the earth's crust where stone or any other component is removed.

Section 2.8 - Renewal of Permit

Renewal of permit means the petition for renewal of the previous permit granted to the same petitioner for the same site.

Section 2.9 - Commercial use

Commercial use means sale, cession, or transfer with lucrative purposes, or the utilization of the material for the manufacturing of a finished product. (1)

Section 2.10 - Public Properties

Those public properties in Puerto Rico under the control, safeguard, and jurisdiction of the Secretary of Public Works.

(1)

Article 2, Law 132: No person, natural or legal, or group of persons, shall perform excavation removal or dredging operations of the components of the earth's crust for commercial use, in public or private properties within the geographic limits of Puerto Rico, without obtaining a permit from the Secretary, with the exception when such excavation or removal operations are necessary for construction projects previously authorized to be carried out in the same site of the operations, as stated by law.

ARTICLE 3 - PETITIONS OF PERMITS

Section 3.1 - Any person, natural or legal, or group of persons, who wish to perform excavations, removals and dredgings of the components of the earth's crust for Commercial use, on public or private properties within the geographic limits of Puerto Rico, must file a petition of permit using Form DOP-101, in original and three copies.

This form will be provided by the DEPARTMENT.

Section 3.2 - The petitions will comply with the following requirements:

- a. Name of petitioner
- b. Exact address of the petitioner
- c. Type and total quantity of material to be extracted
- d. Exact location of the area where the material is to be extracted, on a plan or map to scale not smaller than 1:20,000.
- e. Dimensions and location of the area to be excavated, indicating the inclination of the side slopes around the excavation and the depth of the same.
- f. In the case of coastal waters a maritime chart of the area should be included, indicating the elevations of submerged land configuration of the adjacent coast, location of the reefs, direction of the currents, adjacent coastal structures, navigation routes, and port facilities.
- g. A detailed croquis indicating when applicable, the elevations of the area to be excavated, near-by or neighboring structures, rivers or submerged water profiles, exact locations of the equipment to be used, storage areas, distribution areas, or any other required facilities for the operation such as: pipe installations, docks, access roads, water sites, wells, drainage facilities, and waste disposal areas.

- h. Written authorization from government agencies, when any phase of the operation comes under their jurisdiction.
- i. Property title, or evidence of his legal right to carry out the requested activity as the owner, concessionary, or lessee.
- j. Name and address of the owner or owners of the properties adjacent to the site from where the material will be extracted.

Section 3.3 - The petitioner will submit a detailed description of the operational procedures, to include:

- a. A description of the areas designated for storage and distribution of the components of the earth's crust that are removed, excavated or dredged. Alternate areas for these operations should be included.
- b. A detailed description of the equipment and machinery to be used in the operation.
- c. A detailed description of the methods to be used to remove, excavate, and dredge.
- d. A description of accesses or public roads, like streets, roads or highways, to be used.
- e. A description of the facilities to be installed to prevent water or air pollution.
- f. Period of time for which the permit is requested being it understood that it should not exceed the period during which the petitioner can legally occupy the property in which the operations will be performed.
- g. The SECRETARY may request the compliance of any other requirements, that he may deem necessary and convenient and he may waive the compliance of those considered to his judgment not applicable.

Section 3.4 - The petitions for permits will be filed at the Area of Flood Control and Maintenance of Beaches and Rivers, Department of Public Works, P. O. Box 8218, San Juan, Puerto Rico, 00910.

Section 3.5 - No permit will be granted for a period over three (3) years.

Section 3.6 - Within sixty (60) days following the filing of the petition for permit, the SECRETARY will resolve the same, and when duly justified, he can grant a provisional permit conforming to just terms and conditions until the time he resolves the petition on its merits.

ARTICLE 4 - PETITION OF PERMIT FOR QUARRYING STONES

The following additional requirements will apply when a petition of permit is filed for the excavation and removal of stones and similar materials, with the use of explosives:

Section 4.1 - Safety Measures

The petitioner will prevent that rock fragments, sediments, or any type of débris produced by the quarry operations be deposited on the public road; obstruct the drainage structures; affect the road surface; affect the structural stability of the public facility, or be a hazard to traffic safety along the public road or to lives and properties.

Section 4.2 - Use of explosives

Individual explosives for extracting, blasting, or removal of stones, will be controlled in such a manner so that its magnitude will not exceed the minimum amount necessary to do the work without physically affecting structures and adjacent properties.

Section 4.3 - Hourly schedules for the operation of explosives

Explosive operations will be carried out between 7:00 AM and 6:00 PM on days prevailing favorable weather conditions.

On special occasions the SECRETARY will authorize a different hourly schedule.

Section 4.4 - New Quarries

The exterior perimeter of the pit of new quarries should be located at a minimum distance of 300 meters (1,000 feet) from the right of way limit of any public road, or private or public structure that are not an integral part of the operation complex.

Section 4.5 - Application Limits

Section 4.4 does not apply when evidence is presented to the SECRETARY that a natural or artificial barrier exists projecting not less than thirty (30) meters in the vertical direction above the uppermost level to be blasted, or, when to the judgement of the SECRETARY specific circumstances so justify. The petitioner shall include a detailed description of such a barrier, and its location and /or circumstances in relation to the operations, public roads and adjacent areas.

Such being the case the SECRETARY can authorize the location of the quarry at a shorter distance than specified.

ARTICLE 5 - ADMINISTRATIVE HEARINGS

The administrative hearings to be held by the SECRETARY upon the request of the petitioner and according to Articles 3, 6, 9, and 10 of the LAW, will be subject to the following rules:

Section 5.1 - Notification of Hearings

Written notice of the date of hearing must be served in writing to the petitioner and the hearing shall be held within thirty (30) days after being requested.

Section 5.2 - Record of Hearing

The hearing will be recorded either mechanically or manually. Upon the request of the petitioner a transcript of the record of the hearing, will be prepared, without cost, for the review of the administrative decision.

Section 5.3 - Reconsideration

The petitioner may request reconsideration of the decision of the SECRETARY, if adverse, within fifteen (15) days following the date of the serving of notice thereof.

Section 5.4 - Resolution of Reconsideration

The motion for reconsideration shall be passed upon by the SECRETARY within twenty (20) days following the date of its filing, and if said reconsideration is denied the petitioner may resort to the Superior Court of Puerto Rico, with a petition for review within thirty (30) days following the serving of notice on him of the refusal of the administrative reconsideration.

Section 5.5 - Notice of Petition of Review

The petitioner will notify the SECRETARY by mail with a copy of the petition of review as filed in the Superior Court of Puerto Rico, within the period granted by Law.

Section 5.6 - Documents to the Court

In the period set by the court, the SECRETARY will file the administrative proceedings including the records of the hearing, and will notify the petitioner of the date in which said documents are filed.

Section 5.7 - Notices in General

The notices served by the SECRETARY will be completed at the time of mailing to the last known address of the petitioner.

Section 5.8 - Power delegation

The SECRETARY will designate a minimum of two officers to conduct the administrative hearings and will resolve the petitions, one of which must be a registered lawyer in Puerto Rico.

Section 5.9 - Uniformity of the proceedings

The proceedings for the administrative hearings will be applied to the original permit and the petitions for the renewal of permit as referred to in Articles 3, 6, 9, and 10 of the LAW.

ARTICLE 6 - DEPOSITS OF A SPECIAL PUBLIC INTEREST

In the event of sand deposits, or of any other component of the earth's crust, in public property, in which the SECRETARY considers that there is a special public interest, the SECRETARY will have the following powers vested on him.

- a. He will set forth a resolution stating that said deposit is one of Special Public Interest.
- b. Said resolution must be approved by the Governor of Puerto Rico. Afterwards it will be published in three daily newspapers of general circulation once a week for thirty (30) consecutive days.
- c. The SECRETARY will set the minimum rights to be paid by the petitioners in these deposits. The fees stipulated in Article 9 will NOT apply.
- d. The SECRETARY may, from time to time, review or ammend the special public interest resolution, which must be approved by the Governor of Puerto Rico and published in the same manner as the original resolution.
- e. The SECRETARY may revoke the Special Public Interest resolution whenever circumstances so justify. The revocation will be accomplished by means of a resolution that must be approved by the Governor of Puerto Rico. After approval, publication of the resolution will be done as in the original resolution. Any resolution will go into effect the day after the publication of the last public notice.
- f. The SECRETARY will hold public hearings to listen to persons that have filed petitions requesting permits for the extraction of sand or other earth's crust components in the deposits declared of Special Public Interest.

- g. The SECRETARY will order the publication of public notices in not less than two newspapers of general circulation on the island once a week during thirty (30) consecutive days. The last notice should be published not less than fifteen (15) days prior to the date of the hearing. The notice will specify the place, date and hour of the hearing, and will serve as notice that any person with any adverse or favorable interest on the Special Public Interest Deposit, may request to be heard, and should do so in writing, not less than ten (10) days prior to the hearing.
- h. The SECRETARY at his discretion will listen to the parties referred to in the preceeding paragraph "g", but will consider all the opposing briefs filed thereto.
- i. The SECRETARY will make a special delegation of powers for the public hearings, if he so considers necessary.
- j. Within the following thirty (30) days of the last public hearing, the SECRETARY will call for public bids, stating the date, time and place for opening of proposals. The notice will be published in not less than two daily newspapers of general circulation, twice a week and all petitioners will be notified by certified mail.
- k. On the day set for opening of bids, once the Board of Awards have been legally constituted, the bidders will submit their proposals in closed and sealed envelopes, stating the amount of money to be paid per cubic meter of extracted material. In no case the amount paid be less than the minimum amount set by the SECRETARY, all in accordance to part "c" of Article 6.

- l. The proposals shall be submitted in the form provided by the DEPARTMENT and shall be handled to the Board of Awards at the opening of bids.
- m. The Board of Awards will proceed to open the envelopes and read aloud the proposals for the benefit of bidders and interested parties.
- n. The contract will be awarded to the best responsible bidder. The SECRETARY reserves the right of rejecting anyone or all proposals. In this case a new bid will be called for following the same procedures as the original one.
- o. The SECRETARY will notify his decision to all bidders by registered mail. The bidder or bidders to whom the contract is awarded will execute a contract with the DEPARTMENT within ten (10) days following the date the notice of award was mailed.
- p. The Purchasing and Contracts Division of the DEPARTMENT will prepare the contract that will be signed by the SECRETARY in the presence of two witnesses.
- q. Administratively, the SECRETARY could approve special rules for conducting the bidding procedures all in accordance with the present Rules and Regulations. These special rules will be published once a week in not less than two daily newspapers of general circulation in Puerto Rico, and will apply ten (10) days after the last notice.
- r. Until the administrative special rules are approved as referred under "q" above, the rules and regulations of the Board of Awards of the DEPARTMENT for the contracting of public works, approved on May 7, 1968, will apply whenever applicable.

ARTICLE 7 - TIME LIMITATIONS

On public properties hauling operations shall be carried on between 6:00 AM and 4:00 PM, everyday excepting the following holidays. All Sundays, New Years Day, Three Kings Day, Good Friday, Fourth of July, 25th of July, General Elections Day, Labor Day, Thanksgiving Day , and Christmas Day.

As requested by the concessionary, the SECRETARY can vary these time limitations when he considers the change convenient.

ARTICLE 8 - BONDS AND INSURANCE

Section 8.1 - The petitioner will post a bond for the amount set by the SECRETARY, to carry out operations in public properties, in favor of the Secretary of Public Works, for an amount that will guarantee the payment of fees of the materials extracted within any six (6) months-period. This bond will remain good as long as the permit granted is valid, and its renewal shall take place not less than thirty (30) days prior to the date of expiration.

Section 8.2 - The petitioner will post a public liability insurance, whenever so requested, for the amount optionally set by the SECRETARY.

ARTICLE 9 - FEES

Section 9.1 - Each petition of permit as well as each petition for a permit renewal, must include a ten dollar (\$10.00) fee in money order or certified check, payable to the Secretary of the Treasury, as payment for the granting of a permit to perform operations on private properties.

Section 9.2 - Each permit holder will pay to the Secretary of the Treasury, as part of the fees for the granting of a permit, and for the excavated, removed or dredged material in public properties, the following fees. Each payment will be made within the first fifteen (15) days following each month of operations.

- a. For each cubic meter of sand, gravel or stone--
fifteen cents (\$0.15)
- b. For each cubic meter of fill material or other--
five cents (\$0.05)

ARTICLE 10 - RECORD OF OPERATIONS

For operations in public properties, the concessionary will keep a record of operations as requested by the SECRETARY, including, but not limited to:

1. Type of material
2. Volume of extracted, removed, or dredged material.
3. License plate or license number of vehicles hauling the material and load capacity.
4. Destination of the material

These records will be available for examination by personnel from the DEPARTMENT whenever so requested.

ARTICLE 11 - PERMIT RENEWAL

The petition for a permit renewal for the extraction, removal or dredging of material from the earth's crust, will be done to the SECRETARY within thirty (30) days before the date of expiration of the permit in force. This will be done in writing to the SECRETARY filling out form DOP-102, in original and three (3) copies. The petition will include the following:


- a. Name of petitioner
- b. Correct address of the petitioner
- c. Number and date of the permit in force
- d. Evidence of his right to carry out the activity for the requested period

The SECRETARY shall resolve before the expiration date of the permit in force.

THESE REGULATIONS DEROGATE ANY OTHER IN FORCE PRIOR TO THIS DATE.

Santurce, Puerto Rico

February 27, 1969


ANTONIO SANTIAGO VAZQUEZ
SECRETARY OF PUBLIC WORKS