

**Established Rules Relating to
Red Soil Erosion Prevention Ordinance**

February 1996

**Okinawa Prefectural Government
Department of Environment and Health**

Okinawa Prefectural Ordinance No. 36

The Okinawa Prefecture Red Soil Erosion Prevention Ordinance is hereby promulgated.

October 20, 1994
Masahide Ota, Governor of Okinawa Prefecture

Okinawa Prefecture Red Soil Erosion Prevention Ordinance

As an island prefecture, the history, culture, and daily routines of the people of Okinawa Prefecture have been nourished through the innumerable ties that bind us to the ocean and its endless bounty.

However, in recent years, the red soil erosion which has accompanied our development projects has polluted our waterways and beautiful coral waters, impacting on the ocean ecology and negatively reflecting on our ways of interacting with our natural environment. Today, as an awareness of our responsibilities toward the finite resources of the global environment has grown, the issue of red soil erosion has entered a new phase.

We must remember that we are a part of nature. We must recognize that only in seeking and paving the path for symbiosis with nature in our daily lives and activities, can we bring about the future prosperity and development of Okinawa Prefecture and secure sustainable development that impacts gently on Mother Earth. We must, with this awareness, exert our utmost effort to preserve the beautiful coral reef seas and the pure waterways that have been passed down to us from our forefathers, as part of the invaluable inheritance of all mankind, so that today's and all future generations can enjoy its blessings.

As a new measure to better preserve the bounty of nature and living environment of Okinawa, this proclamation is hereby made to launch this far-reaching project to counter the problems of red soil erosion, by coordinating the efforts of the Prefectural Government and the people of Okinawa. The Red Soil Erosion Prevention Ordinance is established as a first step.

(Purpose)

Article 1 The purposes of this Ordinance are the containment of the red soil erosion that accompanies development project activities, by promoting proper management of land, as well as to prevent the pollution of public water areas (including the deterioration of water quality at lower settlement levels. Same is true for all following references.) caused by red soil erosion and other measures, thus contributing to securing good environmental conditions.

(Definitions)

Article 2 For the purpose of this Ordinance, the terms listed below shall be defined as follows:

- (1) Red soil et al: all soils to include Kunigami Maaji (excluding gravel or sand), and all similar earth table levels.
- (2) Red soil erosion et al: The draining of red soil et al into public water areas through carriage in rain flow or other erosion causes.
- (3) Project operation: Changing the surface coverage of land or nature of the land.
- (4) Project site: The location of a project operation.
- (5) Specific Project Operator: The entity (excluding national government or other organizations as set forth in regulations [hereafter referred to as "national government, etc."]) which implements a project operation over a surface mass in excess of 1000 sq meters.
- (6) Construction Operator(s): The entity implementing the construction operations related to a project operation on behalf of the specific project operator. (Includes entities that undertake construction work under contract).
- (7) Public water area(s): Public water areas as defined in Article 2, Section 1 of the Water Pollution Prevention Law (Law number 138, 1970).
- (8) Red soil erosion containment facilities: Embankments or pools to contain the water carrying red soil particles, thus preventing the soil erosion (includes temporary pooling facilities).
- (9) Red soil erosion prevention measures: Measures or equipment to filter water polluted by red soil particles, and other equipment as required by regulations.

(Preventing Red Soil Erosion)

Article 3 The Specific Project Operator is required to take the countermeasures deemed necessary to prevent all erosion of red soil from the project site.

(Standards for Red Soil Erosion Containment Facilities et al)

- Article 4**
1. To prevent pollution of public water areas by red soil erosion, the Governor must set forth in statute, the standards for red soil erosion containment facilities and for the management of such facilities.
 2. The Governor, prior to establishing such standards for red soil erosion containment facilities and the management of such facilities, must seek opinions from the Okinawa Prefecture Environment Council. The same prerequisite is required for any repeal or revision of these standards.

(Requirement to Install Red Soil Erosion Containment Facility)

Article 5 The Specific Project Operator, when implementing a project operation, must provide for red soil erosion containment facilities in accord with the standards for red soil erosion containment as established according to Article 4, Section 1 above. The Specific Project Operator must manage such containment facilities in accord with the standards set forth for the management of red soil erosion containment (hereinafter referred to as "management standards") as established according to Article 4, Section 1 above.

2. Notwithstanding the provisions of the above clause, when the Specific Project Operator implements a project activity set forth by regulations, red soil erosion prevention equipment) as deemed appropriate by the Governor may be in accord with conditions at the project site.

(Reporting Project Operations)

Article 6 The Specific Project Operator, prior to initiating project activities, must submit the following information to the Governor as set forth in regulations:

- (1) Name and address; corporations must also submit name of representative
- (2) Name of project
- (3) Location of project site
- (4) Total area of the project site
- (5) Content of the project activity
- (6) Structure, location, and management of the red soil erosion prevention facility; or the type of red soil erosion prevention equipment and how it is used.
- (7) Other items as set forth in regulations

(Application for Change in Surface Area of Site)

Article 7 For applications based on the provisions stipulated in the above regulation, and for any and all changes in information provided in Items (4) through (6) above, shall report the changes to the Governor of Okinawa Prefecture. However, if changes are minor ones, the reporting requirement is excluded from this article.

(Application for Change of Names)

Article 8 Those who had made a application based on the Article 6, and if and when there were changes concerning the items 1, 2, and 7 of the same article, the person concerned must application the fact to the Governor of the facts, within 30 days of the change.

(Engineering Application)

Article 9 National, and/or other municipal authorities are to begin civil engineering on the land of which acreage exceeds 1000 sq. meters, the same fact should be reported to the Governor.

2. If and when nation and/or other municipal authorities are to make changes (excluding the minor ones stipulated in the regulations), based on items 4 through 6 of the Article 6, or want to change according to the items 1, 2, and 7 of the same article, the person concerned should application the facts as reported to the Governor.

3. Concerning the matters stipulated in the above two items , the Governor should coordinated with the central government, if it is deemed to be consulted.

4. Regardless of the stipulation of the Article 6, the municipal authorities and other organizations which were founded on the bases of the similar regulations.

(Orders to Change Plans)

Article 10 If and when the application based on the Article 6 or Article 7 was submitted, the Governor is authorized to give a change order for the plan to the person who submitted the same, within 45 days after the receipt of the document, when the Governor deems the application does not meet the standard concerning the red soil erosion preventive facilities , or obvious lack of adequate preventive measures for the control of the standard.

(Restrictions on Civil Engineering Activities)

Article 11 For applications submitted under Article 6 or Article 7, the designated individual shall not be permitted to start the business connected with the submitted application or change of the contents of the application, until the 45th day following submission.

2. The Governor is authorized to shorten the above mentioned waiting period accordingly, when he deems the contents of the application is pertinent to the stipulations of the Article 6 or Article 7.

(Designation of Persons Responsible for Prevention of Red Soil Erosion)

Article 12 The specific civil engineers concerned should appoint a person who will be responsible for the prevention countermeasures for the water erosion of the red soil, and the contractors for the same project should appoint a person to take charge of the control of the same prevention measures.

2. Whomever is responsible for the prevention of the red soil erosion and/or whomever is designated as responsible for compliance with requirements to prevent red soil erosion, must make efforts to implement the items stipulated in the regulations and supervise the site workers .

(Inheritance)

Article 13 In the case of the persons applied according to the Article 6 are to inherit or merger with someone else, the person who is to inherit or the company that is to continue to exist after the merger or the company that was founded after the merger, are to inherit the positions that were applied to the authorities.

2. Those who acquired the right to continue the business concerning the Article 6 application, are entitled to inherit the positions vacated by the persons applied for the same.

3. According to paragraph 2 above, those who inherited the position from the person who had applied on the bases of Article 6, the same persons must report the facts to the Governor of the facts, according to the regulations, within 30 days of date of the inheritance.

(Orders for Improvements)

Article 14 The Governor may issue a temporary injunction against a construction project, setting a period for compliance with the provisions of this act, when it is found that the civil engineers or those who applied for the project based on the Article 6, have not complied with the requirements stipulated in Article 7 or Article 10.

(Discontinuance of Business)

Article 15 Those who are to abolish or discontinue the projects previously applied according to the regulations under the Article 6, are responsible for the prevention of all erosion of red soil from the construction sites that are to be given up, should take pertinent countermeasures for the concerned projects following the regulations, and should report the facts to the Governor.

2. The Governor shall order the person or persons responsible to comply with requirements for prevention of red soil erosion based on the provisions of the preceding paragraph.

(Orders to Halt an Unlicensed Construction)

Article 16 The Governor shall order all measures necessary measures to prevent erosion of red soil including termination of projects where there is sufficient proof that contractors are conducting operations without proper license as required under Article 6.

(Managing Land for Cultivation)

Article 17 Those who manage lands designated for agricultural cultivation (referred to as cultivated land) are required to control the land and prevent red soil erosion. The measures may include creating ridges or small embankments or incorporating better drainage into the soil.

2. When berms or barriers to prevent landslides are installed while developing cultivated lands, persons responsible for such facilities must assure smooth functioning of these facilities.

(Land Managed for Misc. Purposes)

Article 18 Persons managing lands for purposes other than agricultural cultivation (referred to as "other lands") are required to properly manage their lands to contain the risks of red soil erosion, by using measures such as laying turf or gravel. Also where there are facilities to prevent red soil erosion, such persons are required to assure smooth functioning of such prevention measures.

(Instructing Persons Responsible for Cultivated and Other Lands)

Article 19 The Governor, upon confirming massive red soil erosion from cultivated and/or other lands, has the authority to direct the person or persons responsible for those lands to prevent red soil erosion.

(On Site Inspections)

Article 20 As required for proper enforcement of this act, the Governor shall have the authority to demand reports on red soil erosion prevention measures from all parties who have submitted reports under the provisions of Article 6, from those who are required to submit reports under Article 6 but are involved in projects without reporting, or from Project Operators. The Governor shall also have the authority to direct on site inspections of workplaces or offices by official staff, on those aspects involving red soil erosion prevention facilities, measures and devices.

2. Inspection staff operating under the provisions of Article 20, must carry valid identification for presentation to all parties concerned.

3. The authority to conduct on site inspections as specified in Paragraph 1 above shall not be understood as just cause for criminal investigation.

(Exceptions)

Article 21 This act is not applicable to projects conducted as temporary measures for emergency and disaster relief.

(Power to Determine General Policy)

Article 22 The Governor is empowered to decide and determine general policy and its enforcement, as well as to promote studies on red soil erosion prevention and public dissemination of all results.

(Provisions for Other Regulations)

Article 23 Provisions deemed necessary to the implementation of this act, but not provided for within the act, may be separately promulgated as regulations.

(Interim Measures)

Article 24 Interim measures as deemed necessary to govern activities during a period required for enforcement, alteration or any abolition of the provisions provided for within this act, may be separately promulgated within the parameters of this act.

(Penalties)

Article 25 Violations of Article 10, Article 14, Article 15 Paragraph 2 and Article 16 are subject to assessments of fines not to exceed five hundred thousand yen.

2. Failure to report under the provisions of Article 6, Article 7 and/or Article 15 Paragraph 1, or presentations of false reports, are subject to fines not to exceed two hundred thousand yen.

3. Violations as stipulated in the following are subject to fines not to exceed one hundred thousand yen.

(a) Violations of Article 11 Paragraph 1

(b) Failure to report under the provisions of Article 20 Paragraph 1, or presentations of false reports, or those who interfered with, refused or challenged on-the-spot inspections.

(Fines and Penalties)

Article 26 When a representative of a incorporated body or a deputy of an incorporated body or a person, employee or other staff violates any of the above articles in the course of their duties, the same shall be subject to penalty of fine.

Supplementary Regulations

(Date of Enforcement)

1. This act shall be in force within one calendar year from promulgation. However, the provisions of Article 4 Paragraph 2 shall be in force effective November 1, 1994.

(Interim Measures)

2. Any and all special project conductors and countries which have started projects prior to the promulgation of this act, shall not be affected by its terms until the date six months from the enactment [if reported in accordance with Article 6, or reported in accordance with Article 9 Paragraph 1 (including application for Article 4) before the date, until the date of report].

3. Article 11 shall not apply to Specific Project Operator specified in Par. 2 who reported in accordance with Article 6. Article 5 does not apply until the date six months from the report in accordance with Article 6 (if installed, before the date, a red soil prevention facility as specified in Article 5 until the date of installment).