



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

DEC 27 2001

The Honorable Joanne M. S. Brown
Legislative Secretary
I Mina'Bente Sais na Liheslaturan Guåhan
Twenty-Sixth Guam Legislature
Suite 200
130 Aspinal Street
Hagåtña, Guam 96910

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 159 (COR) "AN ACT TO ADOPT HARBOR RULES AND REGULATIONS FOR THE PORT AUTHORITY OF GUAM" which was I have signed into law as Public Law No. 26-72.

The attached Harbor Rules and Regulations were developed by the Port Authority of Guam after much study. They were approved by the Legislature with one change as discussed at the public hearing.

Very truly yours,

Carl T. C. Gutierrez
I Maga'Lahen Guåhan
Governor of Guam

Attachments: original bill for vetoed legislation or
copy of bill for signed or overridden legislation
and legislation enacted without signature


cc: The Honorable Antonio R. Unpingco
Speaker

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	
Time	11:22 AM

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 159 (COR) "AN ACT TO ADOPT HARBOR RULES AND REGULATIONS FOR THE PORT AUTHORITY OF GUAM," was on the 7th day of December, 2001, duly and regularly passed.



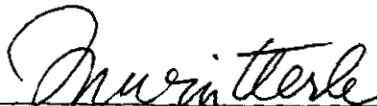
ANTONIO R. UNPINGCO
Speaker

Attested:




JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by I Maga'lahaen Guåhan this 20th day of December, 2001,
at 1:35 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahaen Guåhan

Date: 12-27-01

Public Law No. 26-72

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

Bill No. 159 (COR)

As substituted by the Committee on Tourism,
Transportation and Economic Development
and amended.

Introduced by:

F. P. Camacho
J. F. Ada
T. C. Ada
F. B. Aguon, Jr.
J. M.S. Brown
E. B. Calvo
M. C. Charfauros
Mark Forbes
L. F. Kasperbauer
L. A. Leon Guerrero
K. S. Moylan
V. C. Pangelinan
A. L.G. Santos
A. R. Unpingco
J. T. Won Pat

**AN ACT TO ADOPT HARBOR RULES AND
REGULATIONS FOR THE PORT AUTHORITY OF
GUAM.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

1
2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
3 finds that the Port Authority of Guam's Harbor Regulations were last
4 updated and approved in 1978. Though those rules have served Guam for
5 more than twenty-three (23) years, *I Liheslaturan Guåhan* finds that the rules

1 and regulations should be updated to reflect the changes that have occurred
2 during this time period.

3 After conducting three (3) public hearings on said rules, which were
4 amended primarily to refine the older regulations and to reflect changes in
5 local and Federal laws, and maritime management practices, the Port
6 Authority of Guam's Board of Directors approved an updated version of the
7 rules and regulations on June 9, 2000. *I Liheslaturan Guåhan* finds that these
8 rules and regulations should be approved, subject to further changes by *I*
9 *Liheslaturan Guåhan*.

10 **Section 2. Approval of PAG Harbor Rules and Regulations.** The
11 Harbor Rules and Regulations for the Port Authority of Guam ("Authority"),
12 that were adopted by the Board of Directors for the Authority on June 9, 2000,
13 are hereby approved, with further changes made by *I Liheslaturan Guåhan*.
14 These rules and regulations are attached, labeled as Exhibit A, and
15 incorporated herein.

16 Changes to these rules and regulations are being made in accordance
17 with § 10105 of Title 21 of the Guam Code Annotated and the Administrative
18 Adjudication Law.

19 **Section 3. Severability.** *If* any provision of this Law or its
20 application to any person or circumstance is found to be invalid or contrary to
21 law, such invalidity shall *not* affect other provisions or applications of this
22 Law which can be given effect without the invalid provisions or application,
23 and to this end the provisions of this Law are severable.

EXHIBIT A
HARBOR RULES AND REGULATIONS
FOR THE PORT AUTHORITY OF GUAM

**AMENDED HARBOR RULES AND REGULATIONS
OF THE
PORT AUTHORITY OF GUAM**

Adopted by the Board of Directors of the
Port Authority of Guam on
June 9, 2000

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1.0. ADMINISTRATIVE PROVISIONS.

1.1. Authority. The mission of the Port Authority of Guam (“Port Authority”), a public corporation and autonomous instrumentality of the government of Guam, is to provide for the general needs of ocean commerce, shipping, recreational and commercial boating, and navigation in all Guam waters (12 G.C.A. § 10102). The Port Authority is responsible for operating, maintaining and regulating the use of, and navigation within, portions of Apra Harbor, the Port of Guam, the Gregorio Duenas Perez Marina, Agat Marina and all other public ports, harbors, boat basins, marinas and recreational boating facilities on Guam (ref. 12 G.C.A. § 10101(c)).

1.2. Purpose. These Harbor Rules and Regulations, promulgated pursuant to §§ 10105(g) and (h) of Title 12 of the Guam Code Annotated, are intended to provide for the effective management and operation, as well as safe and efficient use of, and navigation within, all public ports, harbors, boat basins, marinas, and recreational boating facilities on Guam, and should be liberally construed to achieve those purposes.

1.3. Scope; Other Laws and Regulations. All vessels making any use of, or navigating within, Apra Harbor or any other public port, harbor, boat basin or recreational boating facility for which no separate rules and regulations have been adopted by the Authority, shall comply with, and be governed by, these Rules and Regulations. In addition, such vessels shall at all times conform to the following:

- (a) U.S. Coast Guard Regulations (33 C.F.R. Parts 1-199; 46 C.F.R. Parts 1-499);

- (b) Research and Special Programs Administration Regulations (49 C.F.R. Parts 100-185);
- (c) Federal Communications Commission Regulations (47 C.F.R. Part 80);
- (d) Territorial Boating Act (Chapter 69, 10 G.C.A.);
- (e) Recreational Water Use Management Plan (21 G.C.A. § 77119(f));
- (f) Motorized Recreational Water Craft Regulations (Public Law Number 23-89);
- (g) Coral and Fish Conservation (5 G.C.A. § 63127);
- (h) Fishing Regulations/Restrictions (5 G.C.A. §§ 63101-63609);
- (i) Harvesting of Coral (5 G.C.A. § 63602);
- (j) Environmental Protection (40 C.F.R. 1-1517; 10 G.C.A. § 47101);
- (k) Compulsory Pilotage Act of 1999 (Public Law Number 25-09); *and*
- (l) all other applicable U.S. and Guam laws and regulations.

1.4. Non-Discrimination Policy. All services performed and activities conducted on property owned or controlled by the Port Authority of Guam shall be performed and conducted without discrimination or segregation against any individual regardless of their race, creed, gender or national origin. Violation of this policy shall constitute good cause for termination of any lease, concession, right, privilege, license, permit or other interest held by the violator.

1.5. Interpretation. *If* any provision of these Rules and Regulations is inconsistent with any law of the United States or any rule or standard established pursuant thereto, such provision shall be construed, superseded or governed thereby. Nothing contained in these Rules shall be construed to limit the powers of any United States or government of Guam agency or officer.

1.6. Severability. The provision of these Rules and Regulations are declared to be severable and *if* any portion, or the application thereof, to any person or property is held invalid for any reason, the validity of the remainder of these rules, or the application of such remainder to other persons or property, shall *not* be affected.

1.7. Civil Penalties. Any person who violates any of these Rules and Regulations, or who fails to perform any duty imposed thereby, or to comply with any lawful order of the Port Manager, Harbor Master or Dock Master, while in the discharge of that officer's duties, shall be guilty of a misdemeanor. In addition, such person shall be subject to a civil penalty *not* to exceed the sum of Five Thousand Dollars (\$5,000.00) for each violation. The amount of each penalty shall be determined by the Harbor Master, in the Harbor Master's discretion, *subject* to appeals first to the Port Manager, and then to Board of Directors. The amount of each penalty shall be determined based on the gravity of the infraction, number of prior violations, extent of injury to persons or damage to property, and the violator's cooperation and willingness to comply with these Rules and Regulations. In addition to any penalty assessed, or as a condition to the suspension of any penalty, the offender may be deprived of the privilege of using any port, harbor or marina

facility for a period of *not more than* two (2) years. All penalties shall be paid to the Port Authority.

1.8. Procedure for Assessment of Penalties. All complaints shall be in writing, signed and submitted to the Port Manager within thirty (30) days of the date the conduct complained of was first discovered. All complaints must be investigated within sixty (60) days. No penalty may be assessed more than sixty (60) days after the date of the Port Manager's receipt of a written complaint. Penalties shall be assessed by servicing a written Notice of Assessment upon the party thereby charged, either through personal delivery or registered or certified U.S. mail, within ten (10) days of the date of such Notice of Assessment. Each Notice shall state the amount of the penalty assessed, grounds therefor and shall inform the assessee of that person's right to appeal the assessment to the Port Manager and Board of Directors and, thereafter, to challenge the validity or amount of the assessment pursuant to the Administrative Adjudication Law. In addition, a copy of each written complaint upon which the assessment is based shall be attached to, and incorporated by reference in, the Notice of Assessment.

1.9. Complaints and Appeals. All complaints and appeals relating to any violation of these Rules and Regulations, or of any order of a Port Authority official or the Harbor Master in relation to the granting, revocation or denial of any permit, shall be made in writing and addressed to the Port Manager.

1.10. Procedure in Contested Cases. All complaints and appeals authorized by these Rules and Regulations shall be adjudicated pursuant to the Administrative Adjudication Law, 5 G.C.A. § 9100 *et seq.*

1.11. Notice. Where notice to a permittee, vessel owner, charterer, agent or any other party is required by these Rules and Regulations, such notice will be effected in one (1) of the following manners:

(a) posting the notice in a conspicuous place aboard the permittee's vessel or at the assigned berth;

(b) mailing the notice to the person by certified mail, return receipt requested, at the person's last known address; *provided*, that service by mail is deemed received and completed five (5) days after the date of mailing; *or*

(c) personal service; *provided*, that in an emergency, where life and property is endangered or *if* a vessel may interfere with other vessels, construction or maintenance of berthing facilities, or with the free and proper navigation of a waterway *unless* immediate action is taken, remedial action may be taken by the Harbor Master without prior notice.

2.0. DEFINITIONS.

2.1. Agent. Representative of a vessel's owner or charterer who is authorized to transact business for that vessel.

2.2. Alpha Hotel (Pilot Station). The designated approach to Apra Harbor for all vessels prior to entering Apra Harbor. Exact pilot station range: 13 degrees latitude, 26 minutes, 52 seconds, North, 144 degrees longitude, 35 minutes, 15 seconds, East, Range: 083 degrees, 2 nautical miles West of Orote Point.

2.3. Berth. A vessel which is moored or made fast to a quay, wharf, dolphin or other structure is said to occupy a berth.

2.4. Breakwater. The Glass Breakwater at the entrance to the Harbor, Apra Harbor.

2.5. Bunkering. The loading of oil into bunker tanks for use as fuel, as defined in 33 C.F.R.158.120.

2.6. Captain of the Port. The Captain of the Port is the Commanding Officer of the United States Coast Guard on Guam.

2.7. Container Berth. Any berth at a Port Authority dock or pier designated by the Port Manager for preferential or exclusive use by vessels loading or discharging shipping containers.

2.8. Container Cargo. Any and all cargo carried and contained in a shipping container.

2.9. Department. The Port Authority of Guam (Port Authority).

2.10. Dockage. The charge assessed against a vessel when:

(a) berthed at or made fast to a quay, wharf, dolphin or other structure;

- (b) occupying an outside berth; *or*
- (c) *not* tied up to or lying alongside of a quay or wharf, but is using such by means of boats, rafts, lighters or other means.

2.11. Expected Time of Arrival (ETA). Mandatory advance notification, and timely notice of a change in such times or dates, provided to the Harbor Master by the masters, owners, charterers or agents of any commercial vessel arriving at or departing from the Port of Guam.

2.12. Fairway. Within 114m on either side of a line beginning at latitude 13 degrees 26'47"N, longitude 144 degrees 35'07"E; then to latitude 13 degrees 27'14.1"N, longitude 144 degrees 30'14.4"E; then to latitude 13 degrees 26'35.2"N, longitude 144 degrees 39'46.4"E; then to latitude 13 degrees 26'30.8"N, longitude 144 degrees 39'44.4"E. Vessels may *not* anchor in the fairway.

2.13. First Class Pilot. A person who holds a valid license or endorsement issued by the United States Coast Guard for the waters in which they are operating.

2.14. Flammable Liquid. Any liquid which gives off flammable vapors (as determined by the Tagliabue Open Cup Tester, as used to test burning oils) at or below a temperature of eighty (80) degrees Fahrenheit.

2.15. Guam Waters. All United States waters contiguous to the Island of Guam, exclusive of Federally restricted water.

2.16. Harbor. All waters within Apra Harbor extending to the Glass Breakwater.

2.17. Harbor Master. The designated representative of the Port Authority and its General Manager, who is delegated full authority to

administer these Rules and Regulations, in coordination with the Port Authority Safety, Fire and Security Departments. The Harbor Master is authorized to issue orders to ensure the safe and efficient operation of vessels within Apra Harbor and all Guam waters within the Harbor Master's jurisdiction. Also refers to any person acting with the authority of the Harbor Master.

2.19. Harbor Pilot. A person who holds a pilot license issued by the government of Guam for the waters in which they are operating.

2.20. Outside Berth. A vessel which moors or makes fast to another vessel which is occupying a berth is said to occupy an outside berth.

2.21. Port Facilities. All channels, waterways, basins, seawalls, docks, piers, land areas, utilities, warehouses, cargo handling machinery and equipment, tugboats, barges, fire boats and other works, properties, structures and other facilities necessary for the development or operation of the Port of Guam and recreational boating facilities of Guam (12 G.C.A. § 10101(c)).

2.22. Port Manager. The General Manager of the Port Authority, and any person acting with the authority of the General Manager.

2.23. Port of Guam. Those port facilities in and around Apra Harbor owned or controlled by the Port Authority of Guam.

2.24. Shipping Container. A cargo carrying unit or device designed to be transported directly and mechanically between vessels and other forms of transportation, so as to eliminate intermediate dockside re-handling and/or storage of cargo. In addition, such container shall have *minimum* dimensions of eight feet (8') in width and ten feet (10') in length. Sea Vans, (also called

van-packs) of the type commonly used by companies or firms to ship household goods or personal effects, are excluded from the definition of a shipping container so described herein.

2.25. Tanker. A self-propelled cargo vessel specially designed and equipped with tanks for the transportation of oil, gasoline, molasses or other liquids, fluids and free flowing materials, and which is actually transporting therein fuel oil, diesel oil, lubricating oil, gasoline, jet fuels, benzene, kerosene, naphtha or other flammable petroleum or other liquid, fluid or gas products.

2.26. Tankerline Vessel. A cargo ship, primarily designed to carry ordinary freight, but equipped with additional bunkers or compartments in which it is actually transporting fuel oil, diesel oil, lubricating oil, gasoline, jet fuels, benzene, kerosene, naphtha or other flammable petroleum products or like products in excess of its own requirements as cargo.

2.27. Typhoon Conditions. Under these Rules and Regulations, typhoon conditions shall be determined by the Captain of the Port.

2.28. Typhoon Condition 4. Conditions normal.

2.29. Typhoon Condition 3. Typhoon winds of sixty-four (64) knots (seventy-seven (77) miles per hour) or more are anticipated within forty-eight (48) hours.

2.30. Typhoon Condition 2. Typhoon winds of sixty-four (64) knots (seventy-seven (77) miles per hour) or more are anticipated within twenty-four (24) hours.

2.31. Typhoon Condition 1. Typhoon winds of sixty-four (64) knots (seventy-seven (77) miles per hour) or more are anticipated within twelve (12) hours.

2.32. Vessel. Power boats, ships, tugs, sailing vessels, barges, scows, lighters, ferry boats and all other watercraft, *except* public vessels of the United States.

2.33. Vessel Master. The designated person responsible for the safe navigation and operation of a vessel.

2.34. Wharfage. The charge assessed against all cargo:

(a) passing or conveyed over, onto or under any quay or wharf;

or

(b) passing or conveyed to or from a vessel when such vessel is:

(i) made fast to a quay or wharf;

(ii) moored in any slip, channel, basin or canal; *or*

(iii) made fast to another vessel which is made fast to a quay, wharf or moored in any slip, channel, basin or canal (wharfage is *solely* the charge on cargo for the use of the quay, wharf, slip, channel, basin or canal, and does *not* include charges for any other activity or service).

3.0. RESPONSIBLE OFFICIALS.

3.1. Harbor Master. The Harbor Master is the designated representative of the Port Authority of Guam, and its General Manager, and as such is delegated full authority to administer these Rules and Regulations. In addition, the Harbor Master may issue orders and establish procedures necessary for the safe and efficient use and operation of all ports, harbors and marinas within the Port Authority's jurisdiction. Any authority herein given to the Harbor Master may be delegated by the Harbor Master to the Assistant Harbor Master.

3.2. Port Manager. The Port Manager is the General Manager of the Port Authority of Guam, and is responsible for the overall administration of the Port Authority, from cargo handling and equipment maintenance to personnel management.

3.3. Captain of the Port. As stated in 33 C.F.R. 1.01-30, the Captain of the Port, or delegated representatives, enforce within a particular area, port safety and security and marine environmental protection regulations, including, without limitation, regulations for the protection and security of vessels, harbors and waterfront facilities; anchorages; security zones; safety zones; regulated navigation areas; deepwater ports; water pollution; and ports and waterways safety.

3.4. Dock Master. The Dock Master is the duly authorized representative of the Harbor Master whose duties are to berth vessels at berths so designated by the Harbor Master or other authorities, and to advise vessel masters and crews of these Rules and Regulations.

3.5. Vessel Master. The Vessel Master is the designated person in charge of a vessel. The Vessel Master shall obey and carry into effect any orders given by the Harbor Master or Dock Master in relation to the plans and manner of bringing vessels to anchorage, entering or leaving a harbor, or coming alongside of, or leaving any quay or wharf, and shall *not* move or allow the Vessel Master's vessel to be moved in, out, or within a harbor, or anchorage without the permission of the Harbor Master or Dock Master.

3.6. The Vessel Master's Duties. The safe navigation of a vessel, including piloting, is the paramount duty of the Vessel Master, and the presence of a Harbor Pilot on the bridge shall in no way relieve the Vessel Master of that person's duties. The Vessel Master remains at all times in full command of the vessel. The Vessel Master shall continue to navigate and shall take bearings and soundings and check compass courses, check radar and take all actions necessary to safeguard the vessel under that person's command. In that regard, it shall be the duty of the vessel and her Vessel Master:

- (a) to *immediately* inform the Pilot of all reports by lookouts;
- (b) on radar equipped vessels, to have the radar functioning and monitored as needed so that the Vessel Master and Harbor Pilot can be informed of observed targets;
- (c) to arrange for and provide adequate tug assistance, *if* required by these Rules and Regulations and to arrange for and have available adequate vessels lines to assist in tying up the tug or tugs;
- (d) to remain on the bridge at all times and to accompany the Harbor Pilot in respective duties on and about the bridge;

(e) to provide and supervise competent vessel personnel;

(f) to understand and acknowledge that the Harbor Pilot is employed primarily to provide knowledge of the Harbor, and that the Harbor Pilot is acting *solely* in an advisory capacity, and *not* in a command capacity, and that the Harbor Pilot has no authority independent of the Vessel Master;

(g) to have at all times an adequate ship's anchor properly prepared and ready to drop;

(h) to provide officers conversant with the English language; and if they do *not* understand English, then request that the Harbor Pilot give orders by hand signals; *and*

(i) it is the duty of the vessel owners, masters, operators, charterers or agents to inform the Harbor Pilot, either before or immediately after the Harbor Pilot boards the vessel, of any vessel peculiarities, including but *not* limited to, the following:

(i) any defects or deficiencies in the vessel, her personnel, engines or tackle;

(ii) any vessel peculiarities concerning steering, stopping, handling, speed and maneuvering and the propensity - of the vessel to steer; *and*

(iii) any other information, whether or *not* herein enumerated, that might assist the Harbor Pilot in the pilotage of the vessel.

3.7. Agents. The Agents, and their designated representatives, when requested by the Harbor Master, shall give and afford the Harbor

Master all possible aid in the performance of any of the Harbor Master's duties in relation to the vessels they represent.

3.8. Pilotage Services. All pilotage services shall be offered and rendered, and shall be requested and accepted by the vessel, on the express understanding that such pilotage services are provided or performed *solely* in the Harbor Pilot's capacity as a servant of the vessel and of her owners, masters, operators, charterers or agents, and *not* otherwise.

3.9. Berthing of Vessels. The berthing of vessels at Port Authority quays or wharves shall be at the direction of the Harbor Master.

3.10. Vessel Master Shall Assist the Harbor Master. The Vessel Master, and the crew thereof, when requested by the Harbor Master, shall give and afford the Harbor Master all possible aid in the performance of any of the Harbor Master's duties in relation to such vessel.

3.11. If No Person Aboard a Vessel. *If* by reason of there being no person aboard a vessel with proper authority, or *if* by reason of an insufficient number of persons aboard such vessel, or *if* the Vessel Master and/or crew of a vessel refuses to aid the Harbor Master in moving, pumping, mooring or un-mooring such vessel when so directed by the Harbor Master, the Harbor Master is empowered to move, pump, moor or un-moor, place or remove such vessel. To this end, the Harbor Master may, *if* necessary, hire such assistance, equipment and tackle and/or purchase and put aboard such quantity of ballast as to the Harbor Master seems requisite, all at the expense of the owners, charterers or agents of such vessel. All costs shall be paid to the Port Authority before permission for departure is given. The Port

Authority shall in no way be liable for any damage or loss occurring to any vessel in consequence of such proceedings.

3.12. No Person to Cut or Cast Off Lines. No person without the consent of the Harbor Master shall cut or cast off any mooring lines, rope or tackle made fast or attached to any vessel, quay, wharf, mooring, buoy or other place when the same has been fastened or attached by the Harbor Master, or by order of the Harbor Master.

3.13. Typhoon Evasion Plan.

(a) Typhoon Condition 3. Vessels under two hundred feet (200') in length, and *not* normally home-ported on Guam, will depart from the Harbor *if* directed by the Harbor Master or designated representative. All disabled vessels must obtain permission from the Captain of the Port and the Harbor Master to remain in Port at a designated mooring. The intent of this provision is to require such vessels to depart from the Harbor while able to do so before conditions worsen, *unless* such vessels can be adequately secured during the typhoon. The Harbor Master's order to depart for sea shall be final and *not* subject to appeal.

(b) Typhoon Condition 2. All vessels will depart for sea when directed by the Harbor Master or a designated representative, *except* those disabled vessels authorized by the Captain of the Port or the Harbor Master. The Port shall be closed when so ordered by the Captain of the Port.

4.0. USE OF WATERWAYS AND HARBOR FACILITIES.

4.1. Port Authority Rules and Regulations Shall Govern.

The use of any waterway or facility under the jurisdiction of Port Authority by any vessel shall constitute the consent and evidences the agreement on the part of the vessel's owners, charterers and lessees to comply with, and be governed by, all terms and conditions of these Harbor Rules and Regulations, to pay all charges specified in the Port Authority Tariff Schedule, and to discharge all fines assessed against the vessel.

4.2. Preference for Use of Wharves F-5 and F-6. Preference in the use of wharves F-5 and F-6 shall be given to vessels loading or unloading shipping containers.

4.3. Testing of Engines at the Dock. The engines of any vessel moored at any quay, wharf, dolphins or other structure shall *not* be tested, *except* by permission of the Harbor Master. This shall *not* apply to routine pre-departure warming up of engines.

4.4. Speed of Engines During Dock Trials. The speed of engines being tested as referred to in the preceding Paragraph shall *not* exceed the speed of such engines when operated under a dead slow bell.

4.5. Responsibility for Any Damage Done During Dock Trials. Any vessel testing her engines as previously referred to will be held responsible for any damage to quays, wharves or other vessels or property as a result of such testing of her engines.

4.6. No Vessel to Blow Tubes in Port. No vessel shall blow tubes or emit unnecessary smoke or polluting vapors of any kind at any time while in port.

4.7. No Garbage to Be Dumped.

(a) No garbage, rubbish or trash shall be dumped on the quays or wharves of the Port Authority, or into the waters of any harbor, marina or other boating facility. Pollution of any kind is prohibited, and penalties as provided by law will be imposed. Pollution of any kind shall be reported *immediately* to the Harbor Master. The United States Coast Guard shall be *immediately* notified of any discharge of oil or plastic into Guam Waters.

(b) **Regulated Garbage.** No hazardous materials may be disposed of in garbage receptacles. All food or food contaminated garbage must be deposited in trash receptacles provided and marked "Regulated Garbage Only." All other garbage may be disposed of in general garbage receptacles. All vessels requiring regulated receptacles must submit a request to their agents (33 C.F.R. 158.410).

(c) The United States Coast Guard and the Guam Environmental Protection Agency shall be *immediately* notified of any discharge of garbage into Guam Waters.

4.8. No Dumping of Raw Sewage.

(a) No vessel, whether commercial or private pleasure craft, shall deposit raw sewage within the ports, harbors, bays, rivers, lagoons or other Guam waters, *except* as may be permitted by Federal or local regulations. Violators of these regulations will be reported to the appropriate authorities. Penalties for any such violation will be assessed as provided by applicable law or regulation.

(b) The Port Manager and the Harbor Master shall have the authority under these Rules and Regulations to inspect any vessel or craft to ensure that proper standards of health and sanitation are being maintained. Should improper conditions be found to exist, the appropriate health authorities will be notified to take whatever actions are deemed necessary.

5.0. VESSEL MOVEMENTS.

5.1. Control of Vessel Movements in the Harbor. All vessels within the Harbor over fifty feet (50') in length shall advise the Marine Traffic Controller (Channel 13, VHF.FM) of all intended moves into, within, or out of the Harbor, giving the destination and departure time. Such vessels will operate under the direction of the Marine Traffic Controller pursuant to instructions issued by the Harbor Master or an authorized representative.

5.2. Control of Vessel Entry and Discharges. All vessels entering Guam Waters for the purpose of unloading or transferring passengers or cargo in Guam shall be cleared for such purpose at the Port of Guam. No passengers, crew, cargo or any other property aboard vessels entering Guam may be off-loaded onto any wharf, pier, quay, dock or other facility, or transferred to another vessel, *except* as directed by the Harbor Master or the Captain of the Port (5 G.C.A. § 73115).

5.3. Port Manager and Harbor Master to Have Access to Vessels. The Port Manager, Harbor Master, and/or such other person as may be designated, shall be permitted to enter upon and inspect any vessel to ascertain the kind and quantity of cargo thereon, and upon any rented or leased premises of the Port Authority of Guam to inspect such premises, as the interests of the Port Authority may require.

5.4. Having Anchor Ready to Let Go. All commercial vessels entering or leaving a port, harbor or marina will have an anchor clear and in readiness to let go *if* required.

5.5. May Not Make Fast or Secure, *Except* to Proper Bitts, Cleats, Etc.

No person shall make fast any rope or mooring line to any wharf or part thereof, *except* to mooring piles, bitts or cleats provided for that purpose.

5.6. Requirement to Have a Safe Gangway and Display Light.

All vessels *other than* barges and vessels under three hundred (300) gross tons moored alongside of a wharf shall:

(a) at all times have a safe and proper gangway to the wharf;
and

(b) between the hours of sunset and sunrise display a light *other than* a navigation or anchor light that is visible from the harbor or fairway.

5.7. Notification of ETA, etc. The masters, owners, charterers or agents of any commercial vessel arriving at or departing from the Port of Guam shall notify the Harbor Master as soon as practicable of the vessel's:

- (a) date and hour of expected arrival;
- (b) departure date and time;
- (c) draft;
- (d) length over-all;
- (e) gross tonnage; *and*
- (f) vessel flag.

In the event of a change in such times or dates, the Harbor Master shall be notified *immediately*.

5.8. May Not Bring Logs, Rafts, Etc., Alongside the Quay. No person or persons shall cause any vessel, raft, log or other floating object to come alongside of, to be moored to, or near, any quay, wharf or pier in any manner that may cause damage to such quay, wharf or pier.

5.9. Removal of Vessel, Rafts, Etc., From Alongside Which May Do Damage. The Harbor Master shall remove to some suitable place any vessel, raft, log or other floating object which may cause damage to or interfere with the use of any quay or wharf. The owner thereof, *if* known, shall be notified forthwith in writing of such removal; but *if* the owner is *not* known, due notice of such removal shall be given by posting a notice in a conspicuous public place near such vessel. *If* within ten (10) days after the date of giving or posting such notice no claim is made for the property, the Harbor Master may sell or otherwise dispose of such vessel, log, raft, or other floating object, and apply the proceeds of such sale to defray the expenses of the Port Authority and credit the remainder, *if* any, to the owner. The Port Authority of Guam shall *not* be responsible for any loss or damage to such vessel, log, raft or other floating object.

5.10. Damage to Quays, Wharves, Wharf Structures, Utilities and Cargo Handling and Storage Areas.

(a) The vessel masters, owners, charterers, and agents requesting a berth, cargo space allocation, or use of harbor facilities incident to the receiving, discharging, loading and removal of cargo will be responsible:

(1) for all damage caused to Port Authority property by that person, that person's employees, or any agent, subcontractor or materials handling firm under contract to them doing the discharging, loading, repairing or bunkering of a vessel; *and*

(2) for providing necessary protection to harbor facilities to protect them from damage in excess of normal wear and tear.

(b) Repairs to Port Authority Property: Any person responsible for damage to Port Authority property shall make repairs in accordance with Port Authority specifications. *If* the repairs are completed improperly, or *if* the responsible party does *not* undertake the repairs within a reasonable time, the Port Authority will act to repair the damage and will bill the responsible party for the following:

(1) direct labor charges and cost of materials, plus an overhead charge of twenty-five percent (25%) *if* the repairs are made by Port Authority employees; *or*

(2) the contractor's charges plus an administrative charge of twenty-five percent (25%) *if* the repairs are made by a contractor hired by the Port Authority.

5.11. Maximum Speed of Vessels.

(a) All vessels over fifty feet (50') in length shall proceed at a rate of speed, *except* in case of emergency, commensurate with safe navigation and slow enough so as *not* to cause damage to other vessels and/or property.

(b) Vessels under fifty feet (50') when within three hundred feet (300') of any wharf, pier or quay, or within the Piti Channel, shall *not* exceed ten (10) nautical miles per hour, and when within fifty feet (50') of any wharf, pier or quay, a no wake speed must be maintained.

(c) Nothing herein shall preclude the Harbor Master from setting different rates of speed to meet special conditions. Otherwise, *except* as provided in the above Subsections, the "Inland Rules - Rules of the Road" shall govern the operations of all vessels in the Harbor.

5.12. Priorities and Scheduling of Vessel Movements and Berth Assignments in Apra Harbor.

(a) Priorities for vessel movements, other than for typhoons and *unless* otherwise authorized by the Harbor Master, shall be as follows:

- (1) government vessels when responding to emergencies;
- (2) vessels stopping to discharge sick or injured person(s);
- (3) passenger vessels;
- (4) inbound vessels scheduled to load or discharge cargo upon arrival:
 - (i) cargo vessels;
 - (ii) tug and tow; *and*
 - (iii) tankers;
- (5) shift cargo vessels when required for further cargo handling;
- (6) outbound vessels with inter-island cargo;
- (7) incoming vessels arriving for repairs or bunkers; *and*
- (8) all others.

(b) Priorities for vessel movements in the event of a typhoon warning, *unless* otherwise authorized by the Harbor Master, shall be:

- (1) government vessels;
- (2) tankers;
- (3) vessels with explosive cargo;
- (4) passenger vessels;
- (5) freighters; *and*
- (6) others.

(c) **Scheduling Procedures:** Agents shall submit the following to the Harbor Master.

(1) copies of passenger vessel schedules as far in advance as possible;

(2) at the earliest possible time, any ship scheduled for Port Authority; this shall constitute a tentative booking;

(3) *Prior* to 11:00 A.M., the week before a vessel's arrival, or as soon thereafter possible, submit a preliminary Expected Time of Arrival ("ETA") to the Harbor Master.

(4) *Prior* to 11:00 A.M., the day before arrival, a final ETA shall be submitted to the Harbor Master. A schedule shall then be prepared by Harbor Master. The schedule shall be based upon the priorities listed in Sub-paragraph (a) above, and upon the final ETA, and shall be published by 2:00 P.M. each day. All changes thereafter must be reported to the Control Tower Operator. Berthing assignments for changes in schedules will be made on a first-come first-served basis, and shall *not* interfere with established Harbor Master schedules.

(5) *Prior* to 11:00 A.M., daily, submit to the Harbor Master known departures and shifts for the following day. All changes thereafter are to be submitted directly to the Marine Traffic Controller on duty. Changes in schedules will be based upon the priorities in Sub-paragraph (a) above, on a first-come first-served basis, and shall *not* interfere with established Harbor Master schedules.

(6) Vessels arriving and/or departing at the same hour will be handled in accordance with the priority described in Subparagraph (a) above. Within any category, the vessel that was assigned a confirmed booking first will be permitted to move first, *unless* the vessel is late or operating conditions in the harbor dictate otherwise.

(7) Agents are requested to advise the Harbor Master at the earliest possible time when vessels scheduled to call Guam change their ETA, or to provide *at least* twenty-four (24) hours notice of cancellation of their ETA or itineraries.

(d) Other Requirements:

(1) Applications for a berth assignment shall include information as to any peculiar requirements (i.e., camels needed for side-port bunkering, whether one (1) side has to be alongside pier for repairs or other special reasons, etc.). Also, indicate any unusual physical features that might affect piloting or mooring, such as engine or steering gear problems.

(2) Vessels using side-ports for bunkering, storage, passenger debarkation or other reasons, should have side-ports closed when approaching the berth, in order to avoid damage to the pier or to the side-port.

(3) *Except* for those vessels entering to load petroleum products or for special repairs requiring minimum draft, all vessels will be ballasted so as to reduce freeboard to a reasonable degree, and to provide positive stability for the class vessel.

Ballasting and de-ballasting shall be accomplished seaward of ALPHA Hotel.

(4) Agents shall arrange for proper and adequate linemen on time for all vessel arrivals, shifts and departures.

(5) **Pilots and Tugs:** Agents shall make all arrangements for the employment of pilots and adequate tug assistance.

(6) It is the duty of the vessel's agent to keep Customs and Immigration officials advised as to the docking time of vessels being handled by them. It is *not* a responsibility of the Harbor Master to arrange for such officials to board, inspect and clear vessels.

(7) All changes in a vessel's arrival time, shifting time or sailing time must be made *at least* two (2) hours in advance of the previously booked time.

5.13. Vessels Entering and Exiting the Outer Harbor. The following regulations apply to all vessels entering and exiting the outer portions of the Harbor:

(a) *Except* for vessels *not* more than one hundred feet (100') in length, tow boats or tugs without tows, no vessel may pass another vessel within five hundred feet (500') of the Outer Harbor entrance.

(b) Vessels over one hundred (100) gross tons shall:

(1) steady on the entrance range *at least* two (2) miles west of the entrance when approaching the Harbor, *and*

(2) shall steady on the range when departing the Outer Harbor.

(c) No vessel may leave the Outer Harbor until any inbound vessel over one hundred feet (100') in length has cleared the Outer Harbor Entrance.

5.14. Use of Line Handlers. All commercial vessels using Port Authority wharves, piers or other dock facilities must use shore provided line handlers for reasons of safety. Dock Masters and other personnel from the Harbor Master's office are *not* to be used in lieu of such line handlers.

5.15. Anchoring in Fairways. No vessel shall anchor in any fairway so as to obstruct vessel movements or the approach to any wharf (ref. 33 C.F.A. Part 166).

5.16. Authority to Establish Anchorages. The Harbor Master is authorized to designate areas within the Harbor under the jurisdiction of the Port Authority for anchorage and to issue anchorage permits; *provided*, such designations are in conformity with all Federal and territorial laws and regulations.

5.17. Launching and Landing of Helicopters and Aircraft. The launching and landing of helicopters or other manned aircraft from a vessel moored or alongside another vessel, or within five hundred feet (500') of any Port Authority owned or controlled pier, wharf, quay, bulkhead, landing, dolphin or other mooring facility is strictly prohibited. No helicopter or aircraft may take off or land at the designated landing zone ("LZ") at Golf Pier without *prior* permission of the Harbor Master.

5.18. Communications. Operational communications within the HMO are conducted by Marine VHF Radio (Channel 13) and commercial telephone (671-477-8697). The Captain of the Port may also be contacted by

Marine VHF Radio (Channel 13) or telephone (671-339-2001, ext. 112 or 113). All users of Marine VHF Radio communications equipment are encouraged to voice traffic, maintain circuit discipline and to broadcast on "low power" whenever possible.

6.0. PILOTAGE.

6.1. Pilot Service. Pilot services are available on a twenty-four (24) hour basis for Apra Harbor. Pilots are required to board inbound vessels and leave outbound vessels at Alpha Hotel (Pilot Station) two (2) nautical miles West of Udal (formerly Orote) Point to insure that the vessel is properly aligned on the entrance range. *However*, depending upon weather conditions, pilot boarding at a different location may be permitted by the Harbor Master for safety reasons on a case-by-case basis.

6.2. Pilots and Vessel Masters to Observe All Regulations. Pilots and Vessel Masters will observe all harbor, quarantine, immigration and other Federal regulations.

6.3. Pilotage Waters. Pilotage waters as established under this Chapter shall consist of all waters of Guam within two (2) nautical miles of Udal (formerly Orote) Point and all waters within Apra harbor, exclusive of Federally restricted waters.

6.4. Mandatory Use of Harbor Pilot. Every vessel involved in trade or commerce, *other* than an exempt vessel, entering, departing from or traversing the waters of the Harbor shall employ a Harbor Pilot. *However*, a vessel declared by the Harbor Master or the Captain of the Port to be in immediate danger of destruction or which poses an immediate hazard to public safety by its presence in any harbor, may be moved without a Harbor Pilot when a Harbor Pilot is *not* immediately available.

6.5. Exempt Vessels. A Harbor Pilot is *not* required for:

- (a) vessels *not* involved in trade or commerce;

(b) enrolled and other vessels that are exempt under the laws of the United States of America; *provided*, they are under the direction and control of a Federally licensed pilot; *or*

(c) vessels home-ported on Guam and involved in the tourism trade, such as dinner-cruise boats, diving and fishing charter boats, submersibles and rental craft.

6.6. Exempt During Daylight Hours Only. The following vessels, *not* otherwise exempt as provided for in § 6.5 above, may enter, exit and be operated in the Harbor without the assistance of a Harbor Pilot, but *only* during daylight hours:

(a) vessels under five hundred (500) gross tons; *provided*, that the Vessel Master has previously entered and exited the Harbor while operating a vessel with the assistance of a licensed pilot; and *provided*, that the Vessel Master or mate on board the vessel is able to communicate in the English language with the Harbor Master and the Captain of the Port; and *provided*, that adequate two (2) way communications between the vessel and the Harbor Master and the Captain of the Port are continuously maintained, either directly or through the vessel's agent, while the vessel is underway in Guam Waters; *and*

(b) tugs and tows home-ported on Guam or the Commonwealth of the Northern Mariana Islands; *provided*, that the master of the tug and tow has previously entered and exited the Harbor while operating a vessel with the assistance of a licensed pilot.

6.7. Exception for Safe Navigation. This Section is *not* intended to negate or limit the Harbor Master's responsibility for the safe navigation of all vessels within Guam waters. Accordingly, the Harbor Master may recommend or require the assistance of a pilot for any vessel exempt by this provision *if* the Harbor Master determines such is necessary to ensure safety in any port or other waters of Guam.

6.8. Priority for Pilot Services.

(a) A Harbor Pilot will offer the Harbor Pilot's services in the order of priority established by the Harbor Master, *unless* another vessel is observed approaching a dangerous position in which case effort will be made to offer to board and assist the latter vessel.

(b) All Harbor Pilots will aid and assist, by every means within their power, any vessel in distress.

6.9. Pilots to Bring Vessels to Berths Assigned by the Harbor Master.

A pilot bringing a vessel inward, *unless* required to anchor for quarantine, will bring the vessel to such wharf or berth as the Harbor Master may direct.

6.10. Pilots for Small Craft. Every person operating small craft in a Guam harbor, marina or other boating facility, or through channels or entrances leaving or approaching same, shall do so at their own risk. Harbor pilots can be made available for small craft, *if* desired, as set forth in the Sections above.

6.11. Pilot Licensing Rules and Regulations. The following rules and regulations adopted pursuant to the Compulsory Pilotage Act of 1999, Public Law Number 25-09:

(a) **License Required.** No person shall pilot, or offer to pilot, a vessel *not* exempt pursuant to these rules, *unless* that person has first obtained a pilot's license from the Port Authority.

(b) **License Qualifications.** The Port Manager shall issue a license upon: (1) application and payment of the application fee; (2) issuance or presentation of a United States Coast Guard license duly endorsed for the piloting of vessels into, out of and within the Harbor.

(c) **License Term and Automatic Renewal.** Each license shall be effective for a period of five (5) years and shall be *automatically* renewed upon application therefor, upon payment of the application fee, as long as the applicant possesses the *minimum* qualifications established by these rules and remains in active service as a pilot in Guam (refer 5. below). *However*, nothing herein shall prevent the suspension, revocation or denial of a pilot's license for good cause, in accordance with the provisions of these rules or applicable law.

(d) **Pilot License Fees.** Each applicant shall pay a fee of One Hundred Dollars (\$100.00) for a pilot's license, or for the renewal thereof. Such fees shall be payable to the Port Authority.

(e) **Denial, Suspension or Revocation.** In addition to any other action authorized by law or these rules and regulations, the Port Manager may deny the issuance of a pilot's license to any applicant and may suspend or revoke the license of any pilot for cause, including, but *not* limited to, the following:

- (1) violation of this Chapter or any rule or regulation of the Port Authority of Guam;

- (2) negligent pilotage;
- (3) habitual use or consumption of any substance rendering a harbor pilot unfit to be entrusted with the safe navigation of a vessel;
- (4) lack of ability to perform the duties of a harbor pilot;
- (5) failure to remain engaged in regular or active service as a pilot in Guam (i.e. completing *at least* five (5) trips each quarter or three (3) month period);
- (6) procurement of a license through fraudulent misrepresentation or deceit;
- (7) violation of any law or regulation prohibiting unfair or deceptive acts or practices;
- (8) violation of any law or regulation intended to promote marine safety or protect navigable waters or the environment;
- (9) failure to report a marine accident (i.e. any vessel grounding, collision, allision, oils or hazardous materials spill, or a failure of main engine, primary steering system, radar or echo depth sounder) in accordance with the rules and regulations of the Port Authority of Guam; *or*
- (10) failure to maintain a current and valid Federal pilots license or appropriate pilotage endorsement issued in accordance with Chapter 71 of Title 46 of the United States Code.

(f) Exhibition of License. A Harbor Pilot, upon boarding a vessel, and whenever required by the Vessel Master thereof, shall exhibit that person's pilot's license or a photocopy thereof.

(g) Piloting Without a License. *Unless* the person holds a current Guam license to do so, no person shall pilot or offer to pilot a vessel *not* exempt by these Rules. Nor shall any person on board a tug or tow boat tow, or agree to tow, a vessel or barge *not* exempt by these Rules, *unless* the vessel shall have on board a pilot duly licensed pursuant to these Rules.

(h) Rates of Pilotage. The Port Authority of Guam shall *not* provide or warrant the availability of pilot services, which shall be provided solely by the private sector. The terms of any contract for pilotage, including rates or pilot fees, shall be negotiated and agreed upon by the parties thereto, *except* as specifically provided herein.

(i) Complaints. Any person having a complaint against a Pilot shall make such complaint as soon as possible in writing to the Harbor Master, who shall *immediately* investigate the complaint and report thereon to the Port Manager. All complaints shall be processed and adjudicated in the manner provided in §§ 1.8 through 1.11 of these Rules and Regulations. A copy of each complaint shall also be *immediately* forwarded to the Captain of the Port.

(j) Pilot License Review Board. The Port Manager shall appoint a Pilot License Review Board, comprising the Harbor Master, who shall serve as its Chairperson, an Assistant Harbor Master, three (3) licensed Harbor Pilots (*not more than* two (2) employed by the same company), and two (2) members representing the shipping industry. Each member, *except* for the Harbor Master and the Assistant Harbor Master, shall serve for a term of two (2) years, or until replaced. The

purpose of the Pilot License Review Board is to review and recommend appropriate disposition of complaints and other disciplinary action against a Harbor Pilot to the Port Manager and the Port Authority Board of Directors. No pilot's license shall be suspended or revoked, or any disciplinary action taken, *unless* such action has been reviewed by a majority of the members of the Pilot License Review Board, or thirty (30) days have passed from submittal of the matter for such review. The Port Manager and the Port Authority Board of Directors shall consider the recommendations of the Pilot License Review Board *prior* to implementing disciplinary action.

7.0. TUG SERVICE.

7.1. Availability of Tugs. Tug escort services and assistance are available on a twenty-four (24) hour basis for the Harbor. All arrangements shall be made by the vessel's agent sufficiently in advance to ensure that all vessels *not* exempt by these Rules have adequate tug service.

7.2. Use of Tugs. A tug boat (or tugs) shall be used by all commercial vessels, exceeding two hundred fifty feet (250') in overall length entering, leaving or operating within the Harbor, *except* research vessels and vessels up to three hundred feet (300') in overall length equipped with an operational bow thruster. A fishing vessel's use of a skiff boat in lieu of a tug boat is permitted provided there is constant communication between the skiff operator and the Vessel Master.

7.3. Safety Exception. For reasons of safety, the Harbor Master may require any vessel to use the services of a tug or tugs.

7.4. Tow Capacity. Tow escorts shall be of sufficient capacity to safely tow the vessel should the vessel become disabled.

7.5. Length of Escort Service. Whenever weather and sea conditions permit, all tug escorts shall commence at Alpha Hotel (Pilot Station) and continue until the escorted vessel is safely and completely anchored, moored or docked in accordance with the Harbor Master's orders.

8.0. SAFETY, CLEANLINESS AND ENVIRONMENTAL REGULATIONS.

8.1. Handling of Explosive and Other Dangerous Articles.

Handling of shipments of explosive and other dangerous articles, as defined by the Titles 33 and 49, Code of Federal Regulations, will be permitted upon full compliance by the shipper, carrier and terminal operator with all applicable laws and regulations, including Research and Special Programs Administration and United States Coast Guard regulations governing the packaging, marking, labeling, handling and transporting of such articles.

8.2. Fire on Board Ship. In the event of fire occurring on board any vessel in port, *except* vessels underway, such vessels will sound five (5) prolonged blasts of the whistle or siren as an alarm indicating fire on board or at the dock to which the vessel is moored. Such signal will be repeated at intervals to attract attention and is *not* a substitute for, but shall be used in addition to, other means of reporting a fire. The words "prolonged blast" shall mean a blast from four (4) to six (6) seconds in duration. This signal shall *not* be used for any other purpose.

8.3. Explosives. *Except* for Department of Defense vessels, no vessel containing more than twenty-five (25) short tons of Class 1.1 and 1.2 (old classes A and B explosive) as specified in 49 C.F.R. 176.100, and certain 1.5 and 5.1 materials as specified in 49 C.F.R. 176.415 may enter the Harbor, *except* as authorized, in writing by the Captain of the Port.

(a) No facility may discharge from, load on, handle, or re-stow on board Class 1.1 and 1.2, and certain 1.5 and 5.1 materials without

notifying the Harbor Master and obtaining a permit from the Captain of the Port.

(b) All vessels entering or departing Apra Harbor with *less than* twenty-five (25) tons of explosives on board may conduct cargo operations as follows:

(1) cargo stored within forty feet (40') of any explosive container shall *not* be disturbed or moved; *and*

(2) cargo stored above and below of any explosive container shall *not* be disturbed or moved.

8.4. Handling, Loading and Unloading of Explosives. All handling and loading or unloading of explosives shall be done in a safe and careful manner, and in accordance with all Federal laws and regulations pertinent thereto.

8.5. Hauling of Explosives. All hauling of explosives away from or to the pier shall be done in a safe and careful manner and in accordance with applicable laws and regulations of the Guam Fire Department.

8.6. Storage of Hazardous Cargo. No nitrate of soda, nitrate of ammonia, sulfur or other hazardous or toxic substance shall be stored or left upon any wharf for *more than* four (4) hours, *unless* packed in sound and leak-proof containers. Such materials shall be under the continuous care of a competent watchman satisfactory to the Harbor Master until removed. The cost of such watchmen shall *not* be borne by the Port Authority.

8.7. Removal of Hazardous Materials. Indiscriminate sweeping of spilled hazardous material is an unsafe practice. The identity of spilled cargo shall be *immediately* determined. The Captain of the Port shall be

notified of all hazardous material spills on board ship, in the water, or on the pier or facility. *Except* in an emergency situation, no removal or cleanup efforts shall be undertaken without approval of the Captain of the Port.

8.8. Removal of Acid From Wharf. Acids of a dangerous character such as sulfuric, muriatic and nitric acids shall be removed from the wharf *immediately* upon discharge from the vessel, and no such acid shall be put upon a wharf for shipment until the carrier is ready to receive it. Permission of the Harbor Master must be secured in the event it becomes necessary to handle such cargoes at times other than specified.

8.9. Hazardous and Flammable Substances in Leaky Containers.

No gasoline, distillate, kerosene, benzene, naphtha, turpentine, paints, oils or other flammable substance shall be delivered onto any wharf in leaky containers without authorization from the U.S. Coast Guard and necessary permits from Guam and the U.S. Environmental Protection Agency. All such substances unloaded from any vessel in a leaky container shall be removed immediately.

8.10. Combustible Materials *Not* to Be Flame-Treated. No combustible materials, such as pitch, tar, resin or oil shall be flame-treated on board any vessel without the permission of the Harbor Master.

8.11. Vessels Fumigated or Smoked at Dock. No vessel shall be fumigated or smoked at any wharf without permission, in writing, from the Port Manager or Harbor Master and approval from local and Federal authorities.

8.12. Fuel Burning Steam Generating Appliances. All fuel burning steam generating appliances, when used on any wharf under control of the

Port or on any scow, pile driver or other vessel working alongside or near any wharf, shall be equipped with spark arresters satisfactory to the Harbor Master. At the close of each day's work all ashes and cinders shall be promptly removed and shall *not* be disposed of in, near or upon the waters of the Harbor.

8.13. Repair, Manufacturing, Construction Work or Maintenance Work. No person shall make any repairs or do any kind of manufacturing, construction or maintenance work on any wharf without the permission of the Port Manager or Harbor Master.

8.14. No Smoking in Certain Areas. Smoking is prohibited at all times within any freight shed, or upon any wharf apron, and during the time cargo is being loaded, unloaded or stored on any un-shaded pier, *except* within areas designated by the Harbor Master and plainly marked "Smoking Area," and no person shall enter into, stand in or under, or pass through any such wharf or structure with a lighted pipe, cigar, cigarette, match, fire or any flame of whatever nature.

8.15. Use of Explosives. The use of explosives is strictly prohibited upon land, on any wharf, or in any shed or other structure, or in the waters in the immediate vicinity of the same, without the written approval of the Harbor Master and appropriate permits from local and Federal agencies.

8.16. Loading and Unloading of Flammable Materials. Loading or unloading of flammable liquids shall be in strict accordance with applicable Federal and Guam laws and regulations (ref. 33 C.F.R. 126.15(0), Subpart L).

8.17. Welding and Burning Operations on Piers and Wharves and Aboard Vessels.

(a) Hot Work Permit. *Before* any welding or burning operations can be done on wharf or waterfront facility, it is required that the party intending to do such work secure a permit from the Port Authority Safety Office and the Captain of the Port. All hot work operations on board ships will be conducted in accordance with 29 C.F.R. 1915, Subpart B.

(b) Inspections. *Before* any welding, burning, spark or flame-producing operations are undertaken aboard any ship, dock, wharf or waterfront facility, all spaces subject to the accumulation of dangerous gases or gas-producing materials, in or on which hot work is to be performed, and such other spaces as may be required by the U.S. Coast Guard, or required under the provisions of National Fire Protection Association Standards, shall be inspected by a Marine Chemist or a licensed Industrial Hygienist. The Captain of the Port may also authorize, in writing, "U.S. Coast Guard Authorized persons" to conduct such inspections on a case-by-case basis. This authorization and certificate will be limited to the specific incident or specific vessel identified.

(1) Such spaces shall include, but shall *not* be limited to, oil and ballast tanks, cofferdams, void spaces, boiler and machinery spaces, pump rooms, compartments treated with combustible rust preventatives, including hollow rudders and skegs, paint lockers and shaft alleys.

(2) On completion of inspection, a certificate shall be issued setting forth, in writing, the conditions found at the time of

inspection and indicating by appropriate designations whether or not the contemplated repairs or alterations can be undertaken with safety.

(3) One (1) copy of the Marine Chemist or licensed Industrial Hygienist or U.S. Coast Guard - authorized person's Certificate shall accompany the application for a permit, and one (1) copy shall be left aboard ship or waterfront facility, preferably posted in a conspicuous place near the gangway.

(4) Hot work shall be performed in the locations and under the procedures designated in writing on the permit and Marine Certified Chemist's Certificate.

(5) Loading or moving of cargo or the movement of the ship from one (1) location to another within the shipyard or installation for which a Marine Chemist or a licensed Industrial Hygienist Certificate has been issued is permissible without requiring an additional inspection, and the issuance of a Marine Chemist or a licensed Industrial Hygienist Certificate, when in the judgment of the Marine Chemist or licensed Industrial Hygienist or U.S. Coast Guard - authorized person, such movement will *not* create a hazardous situation. *However*, the movement of ships from one (1) jurisdiction area to another shall require an additional inspection, and the issuance of a new Marine Chemist or a licensed Industrial Hygienist Certificate before continuing hot work.

(6) All welding and burning operations shall be under the supervision and control of a competent foreman or supervisor who shall see that all regulations pertaining to welding or burning operations are complied with.

(c) **Operations.** In all types of operations, fire prevention shall be the watchword, and all workmen should bear in mind that fire prevention is their individual responsibility. All combustible materials must be removed from the area in which the welding and burning operations are being conducted, or properly protected *if* removal is *not* feasible.

(1) Welding or burning operations shall *not* be conducted around hatches or companionways, *unless* they are sealed with their own cover or door. In the event this is *not* possible, an asbestos blanket or other flameproof material may be substituted in their place. Such substitutions shall require the approval of the inspecting authority issuing the permit.

When welding or burning operations are being conducted in such locations that sparks could spatter or fly over the outside of the ship's hull, a protective shield composed of metal or other flameproof material shall be provided to prevent the sparks from igniting the wharf or dock, barges or oil slicks on the water, or other combustible materials.

Water-charged fire mains, with hoses and nozzles attached of sufficient length so that the water can reach the base of any fire which may occur, shall be on each deck of the ship where welding

or burning operations are being conducted. A fire watch shall be provided in each space that is in direct contact with the surface where hot work is taking place.

When welding or burning operations are conducted on a wooden wharf, or a fire-resistant paved wharf with cracks or crevices, the entire surrounding area shall be drenched with water by means of a hose line and kept wet during the entire operation to prevent sparks from igniting the flooring or timbers below.

(2) No refueling of equipment with flammable petroleum products will be permitted on any pier or wharf without approval from the Port Authority Safety Office and the Harbor Master.

(3) On waterfront facilities which are used for repair work, no gasoline or other flammable liquid shall be stored, *except* as required for normal operations and then only when stored in approved containers and in quantities approved by the Port Authority Safety Office.

(4) Petroleum based cleaning fluid which has been treated to satisfactorily reduce the flash point may be used for washing grease from machinery parts in an approved location safe for hot work operations. All paints or other flammable liquid materials shall be kept securely covered, *except* when in actual use.

(5) Gasoline-powered generators or compressors shall *not* be operated on the vessel, but must be kept on the wharf. Said equipment shall be equipped with a spark arrester on the exhaust pipe, and the drip pan set in a position to protect the wharf in the

event of any gasoline or oil being spilled. An attendant shall stand by at all times equipped with an approved fire extinguisher to extinguish any fires which may occur. At the conclusion of operations, said gasoline-powered equipment shall be removed from the wharf. Where insulated wire cables are in the path of traffic, they shall be protected from damage by crossovers, and where they lead into the ship they shall be protected from chafing damage by a protective-wrapped covering. Where electrical cables lead from one (1) vessel to another, the same protective measures shall be used.

(6) When acetylene or oxygen cylinders are used, the following precautions shall be followed at all times:

(i) Compressed gas cylinders shall be used in a vertical position only, and shall be secured at all times to prevent falling. Cylinders, when in use, shall be kept on the pier at all times.

(ii) Do *not* drop cylinders; ruptured cylinders may explode. Do *not* use cylinders for rollers, anvils or supports.

(iii) When cylinders are *not* in use, close valves and replace protective caps.

(iv) Cylinders shall *not* be handled by cranes, *except* when they are placed in specially constructed bottle racks or in a skip box. Under no circumstances shall gas cylinders be hoisted by a magnet, manila line, steel cable, chains, slings or nets.

(v) Cylinders *not* in use shall be secured on a wheeled truck so they can be easily moved *if* a fire occurs in the immediate vicinity.

(vi) When permanently installed on a pier and exposed to the sun, cylinders shall be provided with adequate protection from the heat.

(vii) Valve and hose connections shall be kept tight to prevent leaks. Leaks shall be tested with soapy water and *not* with flame.

(viii) Cylinders shall be kept away from sparks, flame or heat.

(ix) Under no circumstances shall smoking be permitted in the vicinity of gas cylinders, whether or *not* burning/welding operations are in progress.

(x) Acetylene hoses shall be tested frequently for leaks. *If* acetylene has been escaping in confined areas, the areas shall be properly ventilated and cleared of all gas, and the area tested and inspected by a competent person, before welding or burning operations are resumed.

(xi) No acetylene torch shall be left unattended while burning. When not being used the hose shall be coiled or looped in a workman-like manner, and placed on a bracket at the cylinders, and the pressure in the hose relieved by closing off the valves on the cylinders and opening the valves on the torch. Lines left unattended during meal times

or other extended periods shall be either removed from compartments or disconnected at the cylinders.

(xii) Oxygen cylinders shall be kept free from oil and grease at all times, because oxygen under pressure brought into contact with oil or oily substances oxidizes so rapidly that an explosion may occur.

(xiii) Oxygen shall *not* be used to blow out oil pipes, for paint spraying or for pneumatic tools, as an explosion might occur.

(xiv) Compressed gas cylinders shall *not* be refilled on any wharf.

(d) Notification of Other Agencies. When the Harbor Master or the Port Authority Safety Officer issues a permit to do hot work, the appropriate Federal and local agencies shall be notified of such action. When hot work is being done in the Harbor, the U.S. Coast Guard Marine Safety Officer on duty at the time and the Harbor Master shall be *immediately* notified.

8.18. Bunkering.

(a) *At least* four (4) hours *prior* to bunkering vessels at any wharf or berth, the supplier shall first obtain permission from the Harbor Master.

(b) The U.S. Coast Guard Marine Safety Office must be notified *at least* four (4) hours in advance for bunkering operations at anchorage for all vessels with a capacity greater than two hundred fifty (250) barrels of oil (refer 33 C.F.R. 156).

(c) During bunkering operations in which bunkers are being taken through an open fuel intake or from a fuel tank truck, where a fire hazard may exist, cargo operations shall cease. This shall *not* apply when bunkers are taken from a pipeline connected by gasketed joints directly to the vessel piping system. *However*, the Harbor Master or Safety Officer may direct that operations be discontinued when an oil spill occurs (as from a broken hose or ruptured gasket) or *if* a potentially hazardous situation exists.

(d) No welding, burning or other types of work that may create hazardous conditions shall be permitted while bunkering operations are in progress. This time period shall commence from either (1) when the tank truck arrives onto the wharf; (2) when a hose is hooked up to the wharf's fuel line; or (3) when the vessel's bunkering connection is opened. The time period shall cease when either (1) the tank truck is off the wharf; or (2) the wharf and vessel fuel connections have been secured.

(e) The mooring lines of the vessel shall be checked *prior* to the bunkering operation to ensure they are secure and to prevent any surging.

(f) *Prior* to any fuel line hook-up being made or a fuel hose stretched to a vessel, a grounding line shall be connected from the vessel to the wharf. This grounding line should be connected first to the vessel and then connected to the shore ground.

(g) *Except* when bunkers are taken from a pipeline connecting through the gasketed joints directly to the vessels piping system, all

engines, motors, fans and other devices liable to produce sparks located closer than fifty feet (50') shall cease operation. On small craft, such as fishing boats and pleasure boats, all ports, windows, doors and hatches shall be closed.

(h) *Only* intrinsically safe flashlights may be used during bunkering operations.

(i) Drip pans will be placed under all points where fuel could leak onto either the wharf, decks or into the harbor, and scuppers shall be blocked to prevent fuel from escaping into the Harbor.

(j) There shall be no smoking, lighting of matches, lighters or use of other devices producing sparks or flame or the throwing of switches (other than certified non-sparking types) on all vessels bunkered at berths.

(k) No unauthorized persons shall be allowed either onboard the vessel, or in the immediate vicinity of the bunkering point.

(l) When a hose and nozzle are used during bunkering operations, the nozzle must be kept in continuous contact with the vessel's fuel intake opening to eliminate the possibility of static sparks.

(m) For all vessels with a capacity greater than two hundred fifty (250) barrels of oil, a person in charge with the proper endorsement required by 33 C.F.R. Part 155.700 shall be stationed in the vessel by the fuel intake at all times while the discharge operation is in progress. For all transfers to U.S. or foreign vessels, in accordance with 33 C.F.R. Part 156.120, the vessel and facility person in charge shall both be stationed at the site of the transfer operation while the operation is in progress.

Such person should have a good command of the English language in order to communicate with shore personnel. Should there be no one in the crew capable of this, an interpreter must be present during the entire fueling operation.

(n) Upon completion of the taking of bunkers, all shore connections must be closed and the vessel's filling lines closed *prior* to disconnection of the grounding lines. The grounding lines shall be disconnected from the shore first, then from the vessel.

(o) Any spilled oil or fuel shall be cleaned up *immediately*. The vessel should be ventilated thoroughly before the opening of doors, hatches, portholes, etc., or the operating of any spark-producing mechanism, to dispel any fumes for *at least* five (5) minutes before resuming normal operations. On small craft, such as fishing boats and pleasure craft, particular attention should be paid to ensuring that fumes have *not* accumulated in the bilges, hatches or other below-deck spaces.

(p) The Harbor Master shall be notified upon completion of all bunkering operations.

(q) Compliance is also required with all other Federal and Guam laws and regulations pertaining to bunkering, *not* specifically mentioned above, such as the flying of a red ("Baker") flag.

9.0. USE OF WHARVES.

9.1. Cleanliness of Wharves. All wharves, sheds and open areas which may be used for the handling of cargo shall be kept in a clean and sanitary condition, and free from all obstructions.

9.2. Charges for Cleaning Wharves Assessed Against Vessel. In cases where the Port Authority takes over the cleaning of wharves, sheds or open areas, a charge shall be computed as the total cost of labor and/or materials used and shall be assessed against the vessel which is responsible for the cleaning.

9.3. Identification of Owner of Mobile Equipment. The owner and lessor, *if* under lease, of all mobile equipment used on any property under the control of the Port Authority in connection with the handling of cargo or shipping containers, such as forklifts, cranes, tractors, straddle trucks, chassis or other equipment, shall be clearly identified on such equipment.

9.4. Admittance of Vehicles into Port Area. No vehicles shall be admitted upon any wharf or in any other area used for the storage of cargo, *except* for the purpose of delivering or picking up freight, *unless* the owner thereof has been granted a permit by the Port Manager or the Harbor Master.

9.5. Speed of Vehicles in Port Area.

(a) Trucks and other vehicles entering upon a wharf for the purpose of delivering or picking up freight shall *not* be driven at a speed *greater than* ten (10) miles per hour. Mobile equipment used in the handling of freight during cargo loading and unloading operations shall be under the direct supervision of a stevedoring foreman and shall *not* be operated at a speed *greater than* ten (10) miles per hour.

(b) Trucks and other vehicles operating in Container Yards shall *not* be driven at a speed *greater than* fifteen (15) miles per hour.

(c) Vehicles on roadways adjacent to wharves and pier sheds shall *not* be driven at a speed *greater than* fifteen (15) miles per hour, *unless* otherwise indicated by appropriate traffic signs.

9.6. Motor Vehicle to be Equipped with Fire Extinguisher. All vehicles entering upon Port Authority facilities shall have a fire extinguisher. Vehicles used to convey the sick or the infirm, ambulances and vehicles of hospitals and/or the health or police departments, and other vehicles used for official government business, may enter upon wharves without a fire extinguisher.

9.7. Paragraphs 9.5 and 9.6 *Not* to Apply to Vehicle Being Shipped. The provisions of Paragraphs 9.5 and 9.6 shall *not* apply to vehicles left on a wharf for the purpose of shipping the same on any vessel, nor shall they apply to any vehicle which has been discharged as freight.

9.8. Fowl, Animals or Livestock on Wharves. No fowl, animal or livestock of any kind shall be allowed to remain on any wharf for a period longer than six (6) hours without being fed and watered. After any fowl, animal or livestock shall have been unloaded on a wharf, it shall be removed from the same within twenty-four (24) hours. No shipment of fowl, animal or livestock subject to quarantine shall be unloaded from a vessel, *unless* cleared by the Department of Agriculture, or *unless* arrangements have been made for acceptance for quarantine. All such fowl, animals and livestock requiring quarantine shall be removed from the wharf within eighteen (18) hours. All expenses incurred in the care and maintenance of fowl, animals or livestock

while on a wharf shall be paid by the consignees thereof, and the Port Authority shall have a lien upon same until all expenses are paid.

9.9. All Vehicles Subject to Orders of the Harbor Master.

All vehicles operating on any wharf shall be subject to the orders of the Harbor Master.

9.10. Placement of Goods and Equipment. Any person handling goods or using equipment on a wharf, or bringing goods thereon for shipment, shall place, store or stack such goods or equipment in such a way as *not* to be an impediment to approaches to the wharf, nor an obstacle to the removal of other goods, nor cause damage to the wharf. No goods shall be so placed as to restrict or prevent the use of mooring bitts, cleats, bollards or other devices used for mooring purposes. No goods shall be so placed as to restrict or prevent the use of tracks, water connections, fire hydrants, gutters, oil and bunker connections or drains.

9.11. Closing of Wharves. The Harbor Master may close any wharf, or any portion thereof, or restrict the use of the same whenever in the Harbor Master's opinion such closure or restriction is necessary to ensure the safety, health or welfare of the public. No person shall enter whenever in the Harbor Master's opinion it is not advisable to do so. No person shall enter upon a wharf so closed or restricted without the permission of the Harbor Master.

9.12. Suspension of Port Operations.

(a) The Port Manager or Harbor Master may order the suspension of any loading or unloading operation, bunkering repairs or other operations when in that person's opinion such suspension is necessary to ensure the safety, health or welfare of the public.

(b) At the request of any other agency or department, the Port Manager or Harbor Master may order the suspension of operations upon a wharf to ensure the safety, health or welfare of the public, or for law enforcement purposes.

9.13. Handling of Goods on Wharf - Responsibility for Damaged Freight Due to Weather Conditions. It is the responsibility of shipping companies, owners and consignors to ensure that freight is adequately protected from weather damage while same is stored on wharves. This responsibility will include provision of adequate covering, closing of all openings, such as outside doors, windows and inspection openings, and the placing of freight on pallets or dunnage so that it will *not* be damaged by moisture from the shad floors. The Port Authority shall *not* be responsible or liable for damaged freight due to inadequate weather protection.

9.14. No Landing of Items That Can Cause Damage. No goods or articles of any description, which are likely to cause damage to property or injury to persons, shall be landed, discharged or unloaded upon any wharf without the prior permission of the Harbor Master.

9.15. Rubbish, Ashes or Refuse on Wharves. No person shall place or leave any ashes or rubbish on any wharf, *except* in areas designated for that purpose, without the permission of the Harbor Master.

9.16. Objectionable Materials on Wharves. No objectionable materials, such as decaying or putrefying vegetable matter, manure or bedding straw shall be left on any wharf. All such material shall be removed *immediately*.

9.17. Dead Animals on Wharves. No dead animal shall be left on any wharf, in the waters or on the shores of any harbor or upon any reef adjacent to any such harbor without the permission of the Harbor Master.

9.18. Dead Animals in Water. No dead animal shall be moved through the waters of any harbor without the consent of the Harbor Master.

9.19. Goods Unfit to Remain on Wharves. Any freight which, in the opinion of the Harbor Master, is unfit to remain upon any wharf, or which may be harmful to other freight on such wharf shall, *if necessary*, be removed by the Harbor Master at the expense of the owner or consignee.

9.20. Rubbish, Swill, Garbage Placed in Harbor. No rubbish, swill, garbage or refuse shall be thrown, washed overboard or placed in the Harbor or upon any wharf.

9.21. Ballast, Etc., Landed on Shores of Harbor. No ballast, rock, stone, slate, slag, gravel, sand, earth, cinders, rubbish, filth, garbage or other noxious substance shall be deposited upon any of the shores, property or facilities under the control of the Port Authority, *unless* approved by the Port Manager.

9.22. Ballast, Etc., Procedures For Landing. When any ballast, rock, stone, sand, fertilizer, grain or other loose material is being handled between a vessel and any wharf or vice-versa, or between two (2) vessels within any harbor, a canvas chute or other means satisfactory to the Harbor Master shall be used to prevent any part of the material being handled from falling into the Harbor or onto the wharf.

10.0. PRIVATE ACTIVITIES.

10.1. Private Use of Port Authority Property and Facilities.

(a) **General Statement.** No use of any property or facility owned or controlled by the Port Authority for commercial or personal purposes is permitted, *except* as authorized by these Rules and Regulations.

(b) **Business Activities.** No person shall engage in any business or commercial activity, including commercial sub-leases, on Port Authority-owned or controlled property without the *prior* written approval of the Port Manager.

10.2. Non-Commercial Activities.

(a) The following activities are prohibited on or within any Port Authority property or facility *if* conducted by a person to or with passers-by in a continuous or repetitive manner:

- (1) the sale or distribution of any merchandise, including, but *not* limited to, jewelry, food stuffs, candles, flowers, badges and clothing;
- (2) the sale of flyers, brochures, pamphlets, books or any other printed or written material;
- (3) the solicitation and receipt of funds;
- (4) the sale of any service;
- (5) the sale of any raffle ticket or entry in a game of chance; *and*
- (6) the conduct of a game of chance.

(b) The continuous or repetitive distribution of flyers, brochures, pamphlets, books or any other printed or written material is prohibited, *unless* conducted pursuant to the following provisions of this Rule:

(1) Each person distributing literature or any other material on behalf of that person, another individual or an organization, must hold a valid leafleting permit and conduct the activity in conformity with applicable laws, regulations and terms of the permit. Each leafleting permit shall describe the material to be distributed and location where it may be distributed.

(2) Each time a person enters Port Authority property or facilities to distribute literature pursuant to this Rule, that person must report their arrival to the Port Manager and sign in *prior* to distributing literature. *If* a leafleting permit has *not* been issued by the Port Manager pursuant to § b(1) above, the person will *not* be permitted to distribute literature pursuant to this Rule. Each time a person leaves the Port Authority property or facility, after distributing literature, that person must report such departure to the Port Manager and sign out upon cessation of distribution of literature.

(3) Permits for distribution of literature will be issued on a first-come, first-served basis. Each person distributing literature on behalf of an organization must display an identification badge that states the name of the organization or person represented.

The badge will be worn on the upper left breast of the outermost garment and be clearly visible.

(4) The distribution of literature pursuant to this Rule is permitted *only* at the locations designated in § c(6) below. Access to these locations will be granted on a first-come, first-served basis each day upon request. No more than three (3) representatives of a single organization or person are permitted to distribute literature at any one (1) location at any one (1) time.

(5) A table may be used in connection with the distribution of literature pursuant to this Rule in the following manner only: only one (1) table, which may *not* exceed fifty-two inches (52") in length and thirty inches (30") in width, may be used at each location.

(6) The distribution of literature shall be conducted *only* between the hours of 10:00 A.M. to 5:00 P.M.

(7) The Port Manager may prohibit the distribution of literature otherwise permitted by this Rule in the event of a tropical storm or typhoon, vessel accident, vessel delay, power failure, transportation strike or other event or condition under which the distribution of literature in such space creates a danger to persons or property, interferes with the orderly formation and progression of waiting lines, or interferes with any of the following: pedestrian and/or vehicular travel; the issuance of tickets or boarding passes, or equivalent documents for sea or ground transportation; luggage or cargo movement or handling;

the entry to and exit from vessels or vehicles; security procedures; government inspection procedures; cleaning, maintenance, repair or construction operations.

(c) The sale of any written or printed matter and the solicitation of funds from the general public for non-commercial purposes (“solicitation activities”) are prohibited, *unless* conducted outside the Administration Building and in full compliance with the following provisions of this Rule:

(1) Each person conducting a solicitation activity must hold a valid solicitation permit issued by the Port Manager and conduct the activity in conformity with applicable laws, regulations and the terms of the permit. Each solicitation permit shall describe the activity authorized and the area in which it may be conducted.

(2) Each person who seeks to engage in a solicitation activity on Port Authority property may do so *only* in connection with religious expression or as a representative of a non-commercial organization. Each such person shall *immediately* be given a single permit upon submission of an application, signed by the applicant, containing the following:

(i) the applicant’s name, address and telephone number;

(ii) the name, address and telephone number of the organization that the applicant represents, and a letter or other documentation that the applicant has authority to

represent that organization (submission of this document is not required of an individual who is not representing an organization);

(iii) the name and title of the person in the organization who will have supervision of and responsibility for the activity at the Port Authority, *if applicable*;

(iv) statement that the sale of printed matter and/or the solicitation of funds is for a non-commercial purpose; *and*

(v) one (1) of the following:

(aa) a statement signed by the applicant that the applicant represents, and will be soliciting funds or selling written or printed matter for the sole benefit of a religion or religious group;

(bb) a statement signed by the applicant that the applicant represents, and will be soliciting funds or selling written or printed matter for the sole benefit of a political organization, a function of which is to influence the nomination, election or appointment of one (1) or more individuals to Federal, state or local public office; to influence Federal, state or local legislation; or to advocate issues or causes to the public;

(cc) a statement signed by the applicant that the applicant's organization has received an official Internal Revenue Service ("IRS") ruling or letter of determination stating that the organization or its parent organization qualifies for tax-exempt status under 26 U.S.C. §§ 501(c)(3), (c)(4) or (c)(5);

(dd) a statement signed by the applicant that the applicant's organization has applied to the IRS for a determination of tax-exempt status under 26 U.S.C. §§ 501(c)(3), (c)(4) and (c)(5), and that the IRS has *not* yet issued a final administrative ruling or determination on such status; *or*

(ee) a statement signed by the applicant that the applicant's organization has on file with the Department of Revenue and Taxation, government of Guam, a current registration statement in accordance with § 651 *et seq.* of the Civil Code of Guam.

(3) Failure to submit all the information required by Paragraph (b) of this Section shall result in denial of a solicitation permit. Upon submission of a completed and signed application, a solicitation permit shall be issued *unless* all available permits have been issued to prior applicants.

(4) Applications for solicitation permits must be submitted to the Port Manager. Permits will be granted on a first-come, first-served basis. The areas will be assigned on a first-

come, first-choice basis. The permits are *not* transferable, *except* among individuals who have completed and submitted applications for the same permit.

(5) Each solicitation permit shall authorize the holder to conduct a fundraising activity for a period of *up to* forty-eight (48) hours. Permits shall *not* be extended or renewed. After the expiration of the permit, a new solicitation permit may be issued to the former permit holder upon request or submission of a new application respectively. In such a case, applicants may be permitted to incorporate by reference any required documentation filed with a previous application.

(6) Each permit shall specify the area in which the solicitation activity may be conducted by the permit holder. Permits shall be issued for the following areas up to the maximum number indicated:

(i) the sidewalk in front of the main entrance and main exit of the Administration Building - five (5) permits;

(ii) the sidewalk in front of the entrance and exit to the Port Terminal - five (5) permits; *and*

(iii) the sidewalk in front of the Board of Directors Office - five (5) permits;

(7) Nothing in this Part shall be construed as impairing or expanding any right which a Port Authority lessee may otherwise have, by virtue of its leasehold interest in Port Authority property,

facilities, or premises, to regulate access to those areas under its exclusive control.

10.3. Prohibited Conduct Relating to Non-Commercial Activity.

No person may conduct any non-commercial activity within or outside a Port Authority building or facility:

- (a) without a permit or with a permit that has expired;
- (b) with a permit issued upon an intentionally false application;
- (c) with a permit outside the area designated on the permit;
- (d) within ten feet (10') of the following:
 - (1) a security screening point;
 - (2) premises leased for the *exclusive* use of a concessionaire;
 - (3) restroom facilities;
 - (4) a stair, escalator or elevator;
 - (5) a doorway or entrance way;
 - (6) a motor vehicle with embarking or disembarking passengers;
 - (7) a public service information counter;
 - (8) a food court or the area adjoining a food or beverage facility; *and*
 - (9) persons waiting in line at any of the above listed areas;
- (e) *if* a person representing the non-commercial organization is selling written or printed matter, or soliciting funds without wearing or displaying, in a conspicuous manner, a solicitation permit and the name of the organization that the person represents;

(f) by intentionally touching or making physical contact with another person, or the vehicle by which the person is occupying, *unless* that other person has consented to such physical contact;

(g) by use of a loudspeaker, sound or voice amplifying apparatus;

(h) by setting up a table, counter or stand without the written permission of the Port Manager;

(i) by leaving any item unattended;

(j) by attaching any placard, sign, circular or other written material on any wall, post, counter, billboard or other surface; *and*

(k) by performing any ceremony, speech, song, carrying of any sign or placard, or other such activity which constitutes a danger to persons or property, or which interferes with any of the following: the orderly formation and progression of waiting lines; passenger, pedestrian and/or vehicular travel; the issuance of tickets or boarding passes or equivalent documents for sea or ground transportation; luggage or cargo movement or handling; the entry to and exit from vehicles; security procedures; government inspection procedures; cleaning, maintenance, repair or construction operations.

11.0. HARBOR ACTIVITIES.

11.1. Hazardous Floating Objects in Harbor. Whenever the disposal, salvage or transportation of a derelict craft, vessel or other object of any size, type or description, might, *if* sunk, lost or abandoned in the harbors, channels, shores or waters of Guam become hazardous to navigation, to dredging or to other operations of the Guam or Federal governments, or the public, the written permission of the Harbor Master shall be obtained *before* taking such action.

11.2. Sinking in Navigable or Off-Shore Waters. No vessel or other object of any size, type or description shall be let loose, sunk, dropped or abandoned in or on the navigable waters or shores of Guam. In the event of such occurrence, the Harbor Master shall be *immediately* notified and the owner shall take such action as is necessary for removal of the object. *If* the owner fails to take action to remove the object, the Port Authority will take such actions as are necessary for such removal and will charge all costs incurred to the owner. The Harbor Master may require the posting of a bond to assure such payment.

11.3. Connecting Up of Vessels to Water Supply System.

(a) No person shall connect a vessel's water supply system, siphon or other water-operated device, equipment or mechanism to a potable water supply system, or operate any water-operated device, equipment or mechanism connected to the water supply system, *unless* an approved backflow prevention device has been installed at the faucet or other point of connection. An "approved backflow prevention device" means a backflow prevention device that meets the

requirements contained in Standard 1001, American Society of Sanitary Engineers or the Uniform Plumbing Code adopted by the International Association of Plumbing and Mechanical Officials ("IAPMO").

(b) No connection may be made from any vessel's water supply system to a dockside water supply system without the written permission of the Harbor Master.

(c) No potable water may be supplied from a dockside water supply outlet without the use of a water meter.

11.4. Dumping of Sinkable Materials. All dumping at sea of sinkable objects or materials is prohibited, *unless* permitted by law. Letting loose of floating objects in the Harbor is strictly prohibited.

11.5. Dredging and Removal of Sand, Gravel, Rock, Etc. No dredging shall be performed, or any sand, gravel, coral, rock or topsoil removed from any areas under the control of the Port Authority, without the written permission of the Port Manager.

11.6. Construction of Structures. No buildings or structures of any nature whatsoever shall be erected or constructed on Port Authority property, nor shall existing structures be modified, without obtaining the written permission of the Port Manager and the approval of any other governmental agency as required by law. In general, approval will be dependent on an agreement to return the property to its original state when vacating the property or premises *if* requested to do so by the Port Authority.

12.0. SMALL CRAFT.

12.1. Small Craft Moorings.

(a) The Harbor Master may, consistent with applicable Federal and Guam laws and regulations, establish and allocate berths and moorings for small craft in Apra Harbor.

(b) Priorities for berthing and mooring in Apra Harbor shall be as follows:

- (1) commercial fishing boats, or boats hauling commercial fish cargoes;
- (2) charter boats;
- (3) other commercial craft; *and*
- (4) recreational craft.

(c) Berths shall be made available *only* when *not* required for large, commercial ocean-going vessels, or government owned/operated vessels, or for vessel for which prior long-term commitments have been made.

(d) Exceptions to the priorities in § (b), above, may be made *if* the Port Manager or Harbor Master believes that it is in the best interests of public safety, health and welfare.

(e) No vessel shall make fast to, moor, dock, anchor at or lay alongside any Port Authority controlled pier, wharf, quay, bulkhead, landing, dolphin, mooring or other moored vessel or anchored vessel in areas under the control of the Port Authority without the prior authorization of the Harbor Master.

(f) Any such vessel may be removed by direction from the Harbor Master.

(g) Any costs incurred by the Port Authority in removing such vessels shall be for the account of the owner, master, agent or operator of the vessel.

(h) Separate rules governing small craft use of, and navigation within, boat basins, marinas and other recreational boating facilities (i.e. Gregorio Duenas Perez Marina and Agat Small Boat Harbor) may be promulgated and should be consulted by the owners and operators of small craft in those facilities. In the event of any conflict between these Rules and Regulations and such separate rules, the latter shall govern the use of, and navigation within, those facilities.

(i) Small Craft Mooring Permit/Request. Any interested person, corporation or other legal body may apply for a mooring permit by completing in-full, the application provided by the Harbor Master. In the case of a legal body, association or other organized body, evidence of corporate existence and authority to submit that application shall be provided to the Harbor Master.

(j) Issuance of a Mooring Permit. A small craft mooring permit shall be issued on a first-come, first-served basis for a period *not to exceed* seventy-two (72) hours when: (1) a completed application has been submitted; (2) an agreement has been executed; (3) an adequate berthing or mooring facility becomes available; (4) the vessel is in an operating condition and capable of operating beyond the confines of the

harbor or other mooring facility on a regular basis; *and* (5) all required fees and charges have been paid.

(k) Cancellation of Mooring Permits. Mooring permits may be canceled for any of the following reasons: (1) the vessel berthed or moored is being used for illegal purposes; (2) the vessel constitutes a hazard to the Port Authority and/or vessels in the vicinity; (3) the permit has expired; (4) the vessel has been abandoned; (5) the vessel's owner, operator, charterer or lessee has been convicted of a crime relating to such vessel; or (6) violation of any Federal or Guam laws or regulations by such vessel.

12.2. Waterskiing, Operation of Personal Watercraft, Parasailing and Windsurfing.

(a) Waterskiing and Parasailing. These activities shall be prohibited in the outer harbor. Vessels and individuals engaged in these activities must operate in accordance with the Navigation Rules and any other special regulations put out by the U.S. Department of Transportation, U.S. Coast Guard. The activities of waterskiing and parasailing are prohibited within one hundred feet (100') of the following areas: (1) any berth, wharf, fairway, pier or quay; (2) any bridge; (3) any beach or other area set aside for swimming or bathing; and (4) any other areas designated by the Port Manager to protect public safety, avoid hazards to navigation or prevent interference with Port Authority operations.

(b) Personal Watercraft and Windsurfers. Personal watercraft and windsurfers must be operated in accordance with the Navigation

Rules and any other special regulations put out by the U.S. Department of Transportation, U.S. Coast Guard. This is especially so with regard to rights-of-way and safe speed when operating in close proximity to any berths, wharfs, fairways, piers or quays. Personal watercraft and windsurfers shall: (1) *not* be operated closer than fifty feet (50') to wharfs; and *if* forced to do so, they shall leave the area as soon as reasonably possible; (2) be allowed to operate within an area designated for swimming or bathing *only* to egress to/from the shoreline to waters outside of the designated swimming area; and they shall do so at a "no wake" speed and avoid people utilizing the swimming area; and (3) be allowed to operate within an area designated as a channel or fairway *if* using such fairway as a traffic lane or when crossing. In accordance with the Navigation Rules, such operation should *not* impede any vessel that is utilizing the fairway, *especially* a vessel restricted in its ability to maneuver.

12.3. Fishing Prohibited in Certain Areas. Catching of fish in the Harbor by any means or method is prohibited in the following areas: (1) all approaches to berths, wharves, channels, fairways and quays; (2) all berths where operations are in progress, such as the commercial piers and wharves, or where dredging is taking place; (3) off any bridges; (4) at or near any beaches *specifically* set aside for swimming or bathing; and (5) any other areas designated by order of the Port Manager to protect public safety, avoid hazards to navigation or prevent interference with Port Authority operations.

12.4. No Consumption of Alcoholic Beverages. Alcohol consumption in any facility under the jurisdiction of the Port Authority is *strictly* prohibited.

(a) Persons under the influence of alcohol or controlled substances are prohibited from entering into any wharves, piers, sheds, roads or open areas owned, or controlled by the Port Authority.

(b) The Port Authority *specifically* and categorically disclaims any liability for any accident incurred by persons under the influence of alcohol or controlled substances.

(c) Any damage to property and facilities owned or under the control of the Port Authority caused by persons under the influence of alcohol or controlled substances shall be repaired or replaced by the Port Authority, and will charge all costs incurred to the person responsible.

12.5. Safe Navigation in Apra Harbor. Recreational vessels operating in the Harbor shall adhere to the following standards of care to ensure safe operation:

- (a) ensure vessel is safe before getting underway;
- (b) ensure vessel is seaworthy;
- (c) keep flares and distress-calling equipment readily accessible;
- (d) be extra careful in bad weather;
- (e) avoid passing large vessels close aboard (Recreational vessel operators need to be aware that large vessels are severely limited in their ability to stop or alter course; that they are limited in their ability to sight small vessels due to blind spots that may extend more than one-

half (1/2) mile ahead; and that they cannot easily avoid a collision with a smaller recreational vessel.);

(f) pass tugs with caution;

(g) know where the traffic lanes, fairways and the regulated navigational areas are located;

(h) know how and when to monitor VHF channels 13, 14 and 16;

(i) know vessel's position at all times; *and*

(j) be an informed mariner:

(1) learn the maritime "Rules of the Road";

(2) read U.S. Coast Guard notices to mariners;

(3) monitor the weather and weather forecasts; *and*

(4) listen to Channel 16 for U.S. Coast Guard broadcasts.

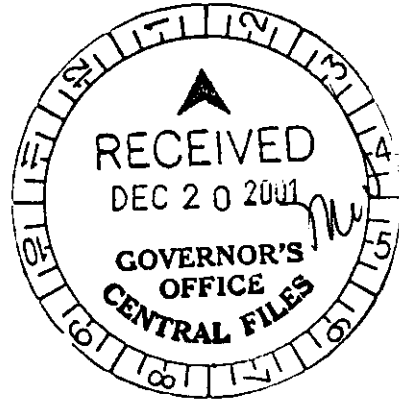


MINA' BENTE SAIS NA LIHESLATURAN GUÁHAN
TWENTY-SIXTH GUAM LEGISLATURE
155 Hensler Place, Hagåtña, Guam 96910

COPY

December 20, 2001

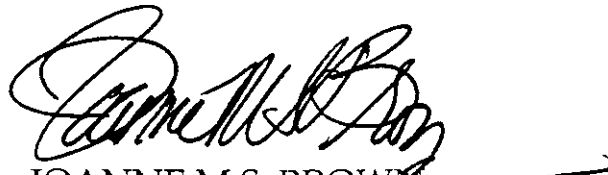
The Honorable Carl T.C. Gutierrez
I Maga'lahaen Guáhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Gutierrez:

Transmitted herewith are Bill No. 203 (COR) and Substitute Bill No. 159 (COR) which were passed by *I Mina'Bente Sais Na Liheslaturan Guáhan* on December 7, 2001, and Substitute Bill No. 173 (COR) which was passed by *I Liheslatura* on December 14, 2001.

Sincerely,


JOANNE M.S. BROWN
Senator and Legislative Secretary

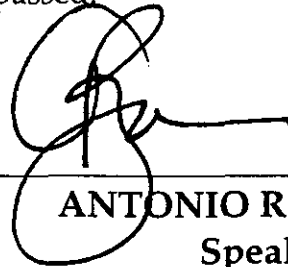
Enclosures (3)

COPY

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 159 (COR) "AN ACT TO ADOPT HARBOR RULES AND REGULATIONS FOR THE PORT AUTHORITY OF GUAM," was on the 7th day of December, 2001, duly and regularly passed.




ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 20th day of December, 2001,
at 1:35 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

IX TRANSMISSION CHECKLIST TO I MAGA'LAHEN GUAHAN
(Included in File w/ All Bills Transmitted)

BILL NO. 157 (CER)

- EXHIBITS ATTACHED *Announced Harbor Rules & Regulation of the PORT (A) 70 pages*
- CONFIRM NUMBER OF PAGES *2*
- CAPTION ON CERTIFICATION MATCHES BILL CAPTION
- ENGROSSED SIGN"" REMOVED FROM BILL
- 15 SENATORS IN SPONSORSHIP OR CONFIRM OTHERWISE
- CERTIFICATION SIGNED BY SPEAKER & LEGIS. SECRETARY
- EMERGENCY DECLARATION, if any *none*

Confirmed By: *[Signature]*

Dated: 12/20/11

FINAL REVIEW: *[Signature]*

Dated: 12/20/11

HAND CARRY BILL IN BLUEBACK (ORIGINAL & COPY) TO THE GOVERNOR. (DANNY, [] OR OTHERS)

ACKNOWLEDGED COPY W/ ORIGINAL BLUEBACK PLACED ON CLERK'S DESK. (Same copy given to [])

FILED by: []

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

Bill No. 159 (COR)

As substituted by the Committee on Tourism,
Transportation and Economic Development
and amended.

Introduced by:

F. P. Camacho

J. F. Ada

T. C. Ada

F. B. Aguon, Jr.

J. M.S. Brown

E. B. Calvo

M. C. Charfauros

Mark Forbes

L. F. Kasperbauer

L. A. Leon Guerrero

K. S. Moylan

V. C. Pangelinan

A. L.G. Santos

A. R. Unpingco

J. T. Won Pat

**AN ACT TO ADOPT HARBOR RULES AND
REGULATIONS FOR THE PORT AUTHORITY OF
GUAM.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
3 finds that the Port Authority of Guam's Harbor Regulations were last
4 updated and approved in 1978. Though those rules have served Guam for
5 more than twenty-three (23) years, *I Liheslaturan Guåhan* finds that the rules

1 and regulations should be updated to reflect the changes that have occurred
2 during this time period.

3 After conducting three (3) public hearings on said rules, which were
4 amended primarily to refine the older regulations and to reflect changes in
5 local and Federal laws, and maritime management practices, the Port
6 Authority of Guam's Board of Directors approved an updated version of the
7 rules and regulations on June 9, 2000. *I Liheslaturan Guåhan* finds that these
8 rules and regulations should be approved, subject to further changes by *I*
9 *Liheslaturan Guåhan*.

10 **Section 2. Approval of PAG Harbor Rules and Regulations.** The
11 Harbor Rules and Regulations for the Port Authority of Guam ("Authority"),
12 that were adopted by the Board of Directors for the Authority on June 9, 2000,
13 are hereby approved, with further changes made by *I Liheslaturan Guåhan*.
14 These rules and regulations are attached, labeled as Exhibit A, and
15 incorporated herein.

16 Changes to these rules and regulations are being made in accordance
17 with § 10105 of Title 21 of the Guam Code Annotated and the Administrative
18 Adjudication Law.

19 **Section 3. Severability.** *If* any provision of this Law or its
20 application to any person or circumstance is found to be invalid or contrary to
21 law, such invalidity shall *not* affect other provisions or applications of this
22 Law which can be given effect without the invalid provisions or application,
23 and to this end the provisions of this Law are severable.

EXHIBIT A
HARBOR RULES AND REGULATIONS
FOR THE PORT AUTHORITY OF GUAM

**AMENDED HARBOR RULES AND REGULATIONS
OF THE
PORT AUTHORITY OF GUAM**

Adopted by the Board of Directors of the
Port Authority of Guam on
June 9, 2000

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1.0. ADMINISTRATIVE PROVISIONS.

1.1. Authority. The mission of the Port Authority of Guam (“Port Authority”), a public corporation and autonomous instrumentality of the government of Guam, is to provide for the general needs of ocean commerce, shipping, recreational and commercial boating, and navigation in all Guam waters (12 G.C.A. § 10102). The Port Authority is responsible for operating, maintaining and regulating the use of, and navigation within, portions of Apra Harbor, the Port of Guam, the Gregorio Duenas Perez Marina, Agat Marina and all other public ports, harbors, boat basins, marinas and recreational boating facilities on Guam (ref. 12 G.C.A. § 10101(c)).

1.2. Purpose. These Harbor Rules and Regulations, promulgated pursuant to §§ 10105(g) and (h) of Title 12 of the Guam Code Annotated, are intended to provide for the effective management and operation, as well as safe and efficient use of, and navigation within, all public ports, harbors, boat basins, marinas, and recreational boating facilities on Guam, and should be liberally construed to achieve those purposes.

1.3. Scope; Other Laws and Regulations. All vessels making any use of, or navigating within, Apra Harbor or any other public port, harbor, boat basin or recreational boating facility for which no separate rules and regulations have been adopted by the Authority, shall comply with, and be governed by, these Rules and Regulations. In addition, such vessels shall at all times conform to the following:

- (a) U.S. Coast Guard Regulations (33 C.F.R. Parts 1-199; 46 C.F.R. Parts 1-499);

- (b) Research and Special Programs Administration Regulations (49 C.F.R. Parts 100-185);
- (c) Federal Communications Commission Regulations (47 C.F.R. Part 80);
- (d) Territorial Boating Act (Chapter 69, 10 G.C.A.);
- (e) Recreational Water Use Management Plan (21 G.C.A. § 77119(f));
- (f) Motorized Recreational Water Craft Regulations (Public Law Number 23-89);
- (g) Coral and Fish Conservation (5 G.C.A. § 63127);
- (h) Fishing Regulations/Restrictions (5 G.C.A. §§ 63101-63609);
- (i) Harvesting of Coral (5 G.C.A. § 63602);
- (j) Environmental Protection (40 C.F.R. 1-1517; 10 G.C.A. § 47101);
- (k) Compulsory Pilotage Act of 1999 (Public Law Number 25-09); *and*
- (l) all other applicable U.S. and Guam laws and regulations.

1.4. Non-Discrimination Policy. All services performed and activities conducted on property owned or controlled by the Port Authority of Guam shall be performed and conducted without discrimination or segregation against any individual regardless of their race, creed, gender or national origin. Violation of this policy shall constitute good cause for termination of any lease, concession, right, privilege, license, permit or other interest held by the violator.

1.5. Interpretation. *If any provision of these Rules and Regulations is inconsistent with any law of the United States or any rule or standard established pursuant thereto, such provision shall be construed, superseded or governed thereby. Nothing contained in these Rules shall be construed to limit the powers of any United States or government of Guam agency or officer.*

1.6. Severability. *The provision of these Rules and Regulations are declared to be severable and if any portion, or the application thereof, to any person or property is held invalid for any reason, the validity of the remainder of these rules, or the application of such remainder to other persons or property, shall not be affected.*

1.7. Civil Penalties. *Any person who violates any of these Rules and Regulations, or who fails to perform any duty imposed thereby, or to comply with any lawful order of the Port Manager, Harbor Master or Dock Master, while in the discharge of that officer's duties, shall be guilty of a misdemeanor. In addition, such person shall be subject to a civil penalty not to exceed the sum of Five Thousand Dollars (\$5,000.00) for each violation. The amount of each penalty shall be determined by the Harbor Master, in the Harbor Master's discretion, subject to appeals first to the Port Manager, and then to Board of Directors. The amount of each penalty shall be determined based on the gravity of the infraction, number of prior violations, extent of injury to persons or damage to property, and the violator's cooperation and willingness to comply with these Rules and Regulations. In addition to any penalty assessed, or as a condition to the suspension of any penalty, the offender may be deprived of the privilege of using any port, harbor or marina*

facility for a period of *not more than two (2) years*. All penalties shall be paid to the Port Authority.

1.8. Procedure for Assessment of Penalties. All complaints shall be in writing, signed and submitted to the Port Manager within thirty (30) days of the date the conduct complained of was first discovered. All complaints must be investigated within sixty (60) days. No penalty may be assessed more than sixty (60) days after the date of the Port Manager's receipt of a written complaint. Penalties shall be assessed by servicing a written Notice of Assessment upon the party thereby charged, either through personal delivery or registered or certified U.S. mail, within ten (10) days of the date of such Notice of Assessment. Each Notice shall state the amount of the penalty assessed, grounds therefor and shall inform the assessee of that person's right to appeal the assessment to the Port Manager and Board of Directors and, thereafter, to challenge the validity or amount of the assessment pursuant to the Administrative Adjudication Law. In addition, a copy of each written complaint upon which the assessment is based shall be attached to, and incorporated by reference in, the Notice of Assessment.

1.9. Complaints and Appeals. All complaints and appeals relating to any violation of these Rules and Regulations, or of any order of a Port Authority official or the Harbor Master in relation to the granting, revocation or denial of any permit, shall be made in writing and addressed to the Port Manager.

1.10. Procedure in Contested Cases. All complaints and appeals authorized by these Rules and Regulations shall be adjudicated pursuant to the Administrative Adjudication Law, 5 G.C.A. § 9100 *et seq.*

1.11. Notice. Where notice to a permittee, vessel owner, charterer, agent or any other party is required by these Rules and Regulations, such notice will be effected in one (1) of the following manners:

(a) posting the notice in a conspicuous place aboard the permittee's vessel or at the assigned berth;

(b) mailing the notice to the person by certified mail, return receipt requested, at the person's last known address; *provided*, that service by mail is deemed received and completed five (5) days after the date of mailing; *or*

(c) personal service; *provided*, that in an emergency, where life and property is endangered or *if* a vessel may interfere with other vessels, construction or maintenance of berthing facilities, or with the free and proper navigation of a waterway *unless* immediate action is taken, remedial action may be taken by the Harbor Master without prior notice.

2.0. DEFINITIONS.

2.1. Agent. Representative of a vessel's owner or charterer who is authorized to transact business for that vessel.

2.2. Alpha Hotel (Pilot Station). The designated approach to Apra Harbor for all vessels prior to entering Apra Harbor. Exact pilot station range: 13 degrees latitude, 26 minutes, 52 seconds, North, 144 degrees longitude, 35 minutes, 15 seconds, East, Range: 083 degrees, 2 nautical miles West of Orote Point.

2.3. Berth. A vessel which is moored or made fast to a quay, wharf, dolphin or other structure is said to occupy a berth.

2.4. Breakwater. The Glass Breakwater at the entrance to the Harbor, Apra Harbor.

2.5. Bunkering. The loading of oil into bunker tanks for use as fuel, as defined in 33 C.F.R.158.120.

2.6. Captain of the Port. The Captain of the Port is the Commanding Officer of the United States Coast Guard on Guam.

2.7. Container Berth. Any berth at a Port Authority dock or pier designated by the Port Manager for preferential or exclusive use by vessels loading or discharging shipping containers.

2.8. Container Cargo. Any and all cargo carried and contained in a shipping container.

2.9. Department. The Port Authority of Guam (Port Authority).

2.10. Dockage. The charge assessed against a vessel when:

(a) berthed at or made fast to a quay, wharf, dolphin or other structure;

- (b) occupying an outside berth; *or*
- (c) *not* tied up to or lying alongside of a quay or wharf, but is using such by means of boats, rafts, lighters or other means.

2.11. Expected Time of Arrival (ETA). Mandatory advance notification, and timely notice of a change in such times or dates, provided to the Harbor Master by the masters, owners, charterers or agents of any commercial vessel arriving at or departing from the Port of Guam.

2.12. Fairway. Within 114m on either side of a line beginning at latitude 13 degrees 26'47"N, longitude 144 degrees 35'07"E; then to latitude 13 degrees 27'14.1"N, longitude 144 degrees 30'14.4"E; then to latitude 13 degrees 26'35.2"N, longitude 144 degrees 39'46.4"E; then to latitude 13 degrees 26'30.8"N, longitude 144 degrees 39'44.4"E. Vessels may *not* anchor in the fairway.

2.13. First Class Pilot. A person who holds a valid license or endorsement issued by the United States Coast Guard for the waters in which they are operating.

2.14. Flammable Liquid. Any liquid which gives off flammable vapors (as determined by the Tagliabue Open Cup Tester, as used to test burning oils) at or below a temperature of eighty (80) degrees Fahrenheit.

2.15. Guam Waters. All United States waters contiguous to the Island of Guam, exclusive of Federally restricted water.

2.16. Harbor. All waters within Apra Harbor extending to the Glass Breakwater.

2.17. Harbor Master. The designated representative of the Port Authority and its General Manager, who is delegated full authority to

administer these Rules and Regulations, in coordination with the Port Authority Safety, Fire and Security Departments. The Harbor Master is authorized to issue orders to ensure the safe and efficient operation of vessels within Apra Harbor and all Guam waters within the Harbor Master's jurisdiction. Also refers to any person acting with the authority of the Harbor Master.

2.19. Harbor Pilot. A person who holds a pilot license issued by the government of Guam for the waters in which they are operating.

2.20. Outside Berth. A vessel which moors or makes fast to another vessel which is occupying a berth is said to occupy an outside berth.

2.21. Port Facilities. All channels, waterways, basins, seawalls, docks, piers, land areas, utilities, warehouses, cargo handling machinery and equipment, tugboats, barges, fire boats and other works, properties, structures and other facilities necessary for the development or operation of the Port of Guam and recreational boating facilities of Guam (12 G.C.A. § 10101(c)).

2.22. Port Manager. The General Manager of the Port Authority, and any person acting with the authority of the General Manager.

2.23. Port of Guam. Those port facilities in and around Apra Harbor owned or controlled by the Port Authority of Guam.

2.24. Shipping Container. A cargo carrying unit or device designed to be transported directly and mechanically between vessels and other forms of transportation, so as to eliminate intermediate dockside re-handling and/or storage of cargo. In addition, such container shall have *minimum* dimensions of eight feet (8') in width and ten feet (10') in length. Sea Vans, (also called

van-packs) of the type commonly used by companies or firms to ship household goods or personal effects, are excluded from the definition of a shipping container so described herein.

2.25. Tanker. A self-propelled cargo vessel specially designed and equipped with tanks for the transportation of oil, gasoline, molasses or other liquids, fluids and free flowing materials, and which is actually transporting therein fuel oil, diesel oil, lubricating oil, gasoline, jet fuels, benzene, kerosene, naphtha or other flammable petroleum or other liquid, fluid or gas products.

2.26. Tankerline Vessel. A cargo ship, primarily designed to carry ordinary freight, but equipped with additional bunkers or compartments in which it is actually transporting fuel oil, diesel oil, lubricating oil, gasoline, jet fuels, benzene, kerosene, naphtha or other flammable petroleum products or like products in excess of its own requirements as cargo.

2.27. Typhoon Conditions. Under these Rules and Regulations, typhoon conditions shall be determined by the Captain of the Port.

2.28. Typhoon Condition 4. Conditions normal.

2.29. Typhoon Condition 3. Typhoon winds of sixty-four (64) knots (seventy-seven (77) miles per hour) or more are anticipated within forty-eight (48) hours.

2.30. Typhoon Condition 2. Typhoon winds of sixty-four (64) knots (seventy-seven (77) miles per hour) or more are anticipated within twenty-four (24) hours.

2.31. Typhoon Condition 1. Typhoon winds of sixty-four (64) knots (seventy-seven (77) miles per hour) or more are anticipated within twelve (12) hours.

2.32. Vessel. Power boats, ships, tugs, sailing vessels, barges, scows, lighters, ferry boats and all other watercraft, *except* public vessels of the United States.

2.33. Vessel Master. The designated person responsible for the safe navigation and operation of a vessel.

2.34. Wharfage. The charge assessed against all cargo:

(a) passing or conveyed over, onto or under any quay or wharf;

or

(b) passing or conveyed to or from a vessel when such vessel is:

(i) made fast to a quay or wharf;

(ii) moored in any slip, channel, basin or canal; *or*

(iii) made fast to another vessel which is made fast to a quay, wharf or moored in any slip, channel, basin or canal (wharfage is *solely* the charge on cargo for the use of the quay, wharf, slip, channel, basin or canal, and does *not* include charges for any other activity or service).

3.0. RESPONSIBLE OFFICIALS.

3.1. Harbor Master. The Harbor Master is the designated representative of the Port Authority of Guam, and its General Manager, and as such is delegated full authority to administer these Rules and Regulations. In addition, the Harbor Master may issue orders and establish procedures necessary for the safe and efficient use and operation of all ports, harbors and marinas within the Port Authority's jurisdiction. Any authority herein given to the Harbor Master may be delegated by the Harbor Master to the Assistant Harbor Master.

3.2. Port Manager. The Port Manager is the General Manager of the Port Authority of Guam, and is responsible for the overall administration of the Port Authority, from cargo handling and equipment maintenance to personnel management.

3.3. Captain of the Port. As stated in 33 C.F.R. 1.01-30, the Captain of the Port, or delegated representatives, enforce within a particular area, port safety and security and marine environmental protection regulations, including, without limitation, regulations for the protection and security of vessels, harbors and waterfront facilities; anchorages; security zones; safety zones; regulated navigation areas; deepwater ports; water pollution; and ports and waterways safety.

3.4. Dock Master. The Dock Master is the duly authorized representative of the Harbor Master whose duties are to berth vessels at berths so designated by the Harbor Master or other authorities, and to advise vessel masters and crews of these Rules and Regulations.

3.5. Vessel Master. The Vessel Master is the designated person in charge of a vessel. The Vessel Master shall obey and carry into effect any orders given by the Harbor Master or Dock Master in relation to the plans and manner of bringing vessels to anchorage, entering or leaving a harbor, or coming alongside of, or leaving any quay or wharf, and shall *not* move or allow the Vessel Master's vessel to be moved in, out, or within a harbor, or anchorage without the permission of the Harbor Master or Dock Master.

3.6. The Vessel Master's Duties. The safe navigation of a vessel, including piloting, is the paramount duty of the Vessel Master, and the presence of a Harbor Pilot on the bridge shall in no way relieve the Vessel Master of that person's duties. The Vessel Master remains at all times in full command of the vessel. The Vessel Master shall continue to navigate and shall take bearings and soundings and check compass courses, check radar and take all actions necessary to safeguard the vessel under that person's command. In that regard, it shall be the duty of the vessel and her Vessel Master:

- (a) to *immediately* inform the Pilot of all reports by lookouts;
- (b) on radar equipped vessels, to have the radar functioning and monitored as needed so that the Vessel Master and Harbor Pilot can be informed of observed targets;
- (c) to arrange for and provide adequate tug assistance, *if* required by these Rules and Regulations and to arrange for and have available adequate vessels lines to assist in tying up the tug or tugs;
- (d) to remain on the bridge at all times and to accompany the Harbor Pilot in respective duties on and about the bridge;

- (e) to provide and supervise competent vessel personnel;
- (f) to understand and acknowledge that the Harbor Pilot is employed primarily to provide knowledge of the Harbor, and that the Harbor Pilot is acting *solely* in an advisory capacity, and *not* in a command capacity, and that the Harbor Pilot has no authority independent of the Vessel Master;
- (g) to have at all times an adequate ship's anchor properly prepared and ready to drop;
- (h) to provide officers conversant with the English language; and if they do *not* understand English, then request that the Harbor Pilot give orders by hand signals; *and*
- (i) it is the duty of the vessel owners, masters, operators, charterers or agents to inform the Harbor Pilot, either before or immediately after the Harbor Pilot boards the vessel, of any vessel peculiarities, including but *not* limited to, the following:
 - (i) any defects or deficiencies in the vessel, her personnel, engines or tackle;
 - (ii) any vessel peculiarities concerning steering, stopping, handling, speed and maneuvering and the propensity - of the vessel to steer; *and*
 - (iii) any other information, whether or *not* herein enumerated, that might assist the Harbor Pilot in the pilotage of the vessel.

3.7. **Agents.** The Agents, and their designated representatives, when requested by the Harbor Master, shall give and afford the Harbor

Master all possible aid in the performance of any of the Harbor Master's duties in relation to the vessels they represent.

3.8. Pilotage Services. All pilotage services shall be offered and rendered, and shall be requested and accepted by the vessel, on the express understanding that such pilotage services are provided or performed *solely* in the Harbor Pilot's capacity as a servant of the vessel and of her owners, masters, operators, charterers or agents, and *not* otherwise.

3.9. Berthing of Vessels. The berthing of vessels at Port Authority quays or wharves shall be at the direction of the Harbor Master.

3.10. Vessel Master Shall Assist the Harbor Master. The Vessel Master, and the crew thereof, when requested by the Harbor Master, shall give and afford the Harbor Master all possible aid in the performance of any of the Harbor Master's duties in relation to such vessel.

3.11. If No Person Aboard a Vessel. *If* by reason of there being no person aboard a vessel with proper authority, or *if* by reason of an insufficient number of persons aboard such vessel, or *if* the Vessel Master and/or crew of a vessel refuses to aid the Harbor Master in moving, pumping, mooring or un-mooring such vessel when so directed by the Harbor Master, the Harbor Master is empowered to move, pump, moor or un-moor, place or remove such vessel. To this end, the Harbor Master may, *if* necessary, hire such assistance, equipment and tackle and/or purchase and put aboard such quantity of ballast as to the Harbor Master seems requisite, all at the expense of the owners, charterers or agents of such vessel. All costs shall be paid to the Port Authority before permission for departure is given. The Port

Authority shall in no way be liable for any damage or loss occurring to any vessel in consequence of such proceedings.

3.12. No Person to Cut or Cast Off Lines. No person without the consent of the Harbor Master shall cut or cast off any mooring lines, rope or tackle made fast or attached to any vessel, quay, wharf, mooring, buoy or other place when the same has been fastened or attached by the Harbor Master, or by order of the Harbor Master.

3.13. Typhoon Evasion Plan.

(a) **Typhoon Condition 3.** Vessels under two hundred feet (200') in length, and *not* normally home-ported on Guam, will depart from the Harbor *if* directed by the Harbor Master or designated representative. All disabled vessels must obtain permission from the Captain of the Port and the Harbor Master to remain in Port at a designated mooring. The intent of this provision is to require such vessels to depart from the Harbor while able to do so before conditions worsen, *unless* such vessels can be adequately secured during the typhoon. The Harbor Master's order to depart for sea shall be final and *not* subject to appeal.

(b) **Typhoon Condition 2.** All vessels will depart for sea when directed by the Harbor Master or a designated representative, *except* those disabled vessels authorized by the Captain of the Port or the Harbor Master. The Port shall be closed when so ordered by the Captain of the Port.

4.0. USE OF WATERWAYS AND HARBOR FACILITIES.

4.1. Port Authority Rules and Regulations Shall Govern.

The use of any waterway or facility under the jurisdiction of Port Authority by any vessel shall constitute the consent and evidences the agreement on the part of the vessel's owners, charterers and lessees to comply with, and be governed by, all terms and conditions of these Harbor Rules and Regulations, to pay all charges specified in the Port Authority Tariff Schedule, and to discharge all fines assessed against the vessel.

4.2. Preference for Use of Wharves F-5 and F-6. Preference in the use of wharfs F-5 and F-6 shall be given to vessels loading or unloading shipping containers.

4.3. Testing of Engines at the Dock. The engines of any vessel moored at any quay, wharf, dolphins or other structure shall *not* be tested, *except* by permission of the Harbor Master. This shall *not* apply to routine pre-departure warming up of engines.

4.4. Speed of Engines During Dock Trials. The speed of engines being tested as referred to in the preceding Paragraph shall *not* exceed the speed of such engines when operated under a dead slow bell.

4.5. Responsibility for Any Damage Done During Dock Trials. Any vessel testing her engines as previously referred to will be held responsible for any damage to quays, wharves or other vessels or property as a result of such testing of her engines.

4.6. No Vessel to Blow Tubes in Port. No vessel shall blow tubes or emit unnecessary smoke or polluting vapors of any kind at any time while in port.

4.7. No Garbage to Be Dumped.

(a) No garbage, rubbish or trash shall be dumped on the quays or wharves of the Port Authority, or into the waters of any harbor, marina or other boating facility. Pollution of any kind is prohibited, and penalties as provided by law will be imposed. Pollution of any kind shall be reported *immediately* to the Harbor Master. The United States Coast Guard shall be *immediately* notified of any discharge of oil or plastic into Guam Waters.

(b) **Regulated Garbage.** No hazardous materials may be disposed of in garbage receptacles. All food or food contaminated garbage must be deposited in trash receptacles provided and marked "Regulated Garbage Only." All other garbage may be disposed of in general garbage receptacles. All vessels requiring regulated receptacles must submit a request to their agents (33 C.F.R. 158.410).

(c) The United States Coast Guard and the Guam Environmental Protection Agency shall be *immediately* notified of any discharge of garbage into Guam Waters.

4.8. No Dumping of Raw Sewage.

(a) No vessel, whether commercial or private pleasure craft, shall deposit raw sewage within the ports, harbors, bays, rivers, lagoons or other Guam waters, *except* as may be permitted by Federal or local regulations. Violators of these regulations will be reported to the appropriate authorities. Penalties for any such violation will be assessed as provided by applicable law or regulation.

(b) The Port Manager and the Harbor Master shall have the authority under these Rules and Regulations to inspect any vessel or craft to ensure that proper standards of health and sanitation are being maintained. Should improper conditions be found to exist, the appropriate health authorities will be notified to take whatever actions are deemed necessary.

5.0. VESSEL MOVEMENTS.

5.1. Control of Vessel Movements in the Harbor. All vessels within the Harbor over fifty feet (50') in length shall advise the Marine Traffic Controller (Channel 13, VHF.FM) of all intended moves into, within, or out of the Harbor, giving the destination and departure time. Such vessels will operate under the direction of the Marine Traffic Controller pursuant to instructions issued by the Harbor Master or an authorized representative.

5.2. Control of Vessel Entry and Discharges. All vessels entering Guam Waters for the purpose of unloading or transferring passengers or cargo in Guam shall be cleared for such purpose at the Port of Guam. No passengers, crew, cargo or any other property aboard vessels entering Guam may be off-loaded onto any wharf, pier, quay, dock or other facility, or transferred to another vessel, *except* as directed by the Harbor Master or the Captain of the Port (5 G.C.A. § 73115).

5.3. Port Manager and Harbor Master to Have Access to Vessels. The Port Manager, Harbor Master, and/or such other person as may be designated, shall be permitted to enter upon and inspect any vessel to ascertain the kind and quantity of cargo thereon, and upon any rented or leased premises of the Port Authority of Guam to inspect such premises, as the interests of the Port Authority may require.

5.4. Having Anchor Ready to Let Go. All commercial vessels entering or leaving a port, harbor or marina will have an anchor clear and in readiness to let go *if* required.

5.5. May Not Make Fast or Secure, *Except* to Proper Bitts, Cleats, Etc.

Ballasting and de-ballasting shall be accomplished seaward of ALPHA Hotel.

(4) Agents shall arrange for proper and adequate linemen on time for all vessel arrivals, shifts and departures.

(5) **Pilots and Tugs:** Agents shall make all arrangements for the employment of pilots and adequate tug assistance.

(6) It is the duty of the vessel's agent to keep Customs and Immigration officials advised as to the docking time of vessels being handled by them. It is *not* a responsibility of the Harbor Master to arrange for such officials to board, inspect and clear vessels.

(7) All changes in a vessel's arrival time, shifting time or sailing time must be made *at least* two (2) hours in advance of the previously booked time.

5.13. Vessels Entering and Exiting the Outer Harbor. The following regulations apply to all vessels entering and exiting the outer portions of the Harbor:

(a) *Except* for vessels *not* more than one hundred feet (100') in length, tow boats or tugs without tows, no vessel may pass another vessel within five hundred feet (500') of the Outer Harbor entrance.

(b) Vessels over one hundred (100) gross tons shall:

(1) steady on the entrance range *at least* two (2) miles west of the entrance when approaching the Harbor, *and*

(2) shall steady on the range when departing the Outer Harbor.

(c) No vessel may leave the Outer Harbor until any inbound vessel over one hundred feet (100') in length has cleared the Outer Harbor Entrance.

5.14. Use of Line Handlers. All commercial vessels using Port Authority wharves, piers or other dock facilities must use shore provided line handlers for reasons of safety. Dock Masters and other personnel from the Harbor Master's office are *not* to be used in lieu of such line handlers.

5.15. Anchoring in Fairways. No vessel shall anchor in any fairway so as to obstruct vessel movements or the approach to any wharf (ref. 33 C.F.A. Part 166).

5.16. Authority to Establish Anchorages. The Harbor Master is authorized to designate areas within the Harbor under the jurisdiction of the Port Authority for anchorage and to issue anchorage permits; *provided*, such designations are in conformity with all Federal and territorial laws and regulations.

5.17. Launching and Landing of Helicopters and Aircraft. The launching and landing of helicopters or other manned aircraft from a vessel moored or alongside another vessel, or within five hundred feet (500') of any Port Authority owned or controlled pier, wharf, quay, bulkhead, landing, dolphin or other mooring facility is strictly prohibited. No helicopter or aircraft may take off or land at the designated landing zone ("LZ") at Golf Pier without *prior* permission of the Harbor Master.

5.18. Communications. Operational communications within the HMO are conducted by Marine VHF Radio (Channel 13) and commercial telephone (671-477-8697). The Captain of the Port may also be contacted by

Marine VHF Radio (Channel 13) or telephone (671-339-2001, ext. 112 or 113). All users of Marine VHF Radio communications equipment are encouraged to voice traffic, maintain circuit discipline and to broadcast on "low power" whenever possible.

6.0. PILOTAGE.

6.1. Pilot Service. Pilot services are available on a twenty-four (24) hour basis for Apra Harbor. Pilots are required to board inbound vessels and leave outbound vessels at Alpha Hotel (Pilot Station) two (2) nautical miles West of Udal (formerly Orote) Point to insure that the vessel is properly aligned on the entrance range. *However*, depending upon weather conditions, pilot boarding at a different location may be permitted by the Harbor Master for safety reasons on a case-by-case basis.

6.2. Pilots and Vessel Masters to Observe All Regulations. Pilots and Vessel Masters will observe all harbor, quarantine, immigration and other Federal regulations.

6.3. Pilotage Waters. Pilotage waters as established under this Chapter shall consist of all waters of Guam within two (2) nautical miles of Udal (formerly Orote) Point and all waters within Apra harbor, exclusive of Federally restricted waters.

6.4. Mandatory Use of Harbor Pilot. Every vessel involved in trade or commerce, *other* than an exempt vessel, entering, departing from or traversing the waters of the Harbor shall employ a Harbor Pilot. *However*, a vessel declared by the Harbor Master or the Captain of the Port to be in immediate danger of destruction or which poses an immediate hazard to public safety by its presence in any harbor, may be moved without a Harbor Pilot when a Harbor Pilot is *not* immediately available.

6.5. Exempt Vessels. A Harbor Pilot is *not* required for:

- (a) vessels *not* involved in trade or commerce;

(b) enrolled and other vessels that are exempt under the laws of the United States of America; *provided*, they are under the direction and control of a Federally licensed pilot; *or*

(c) vessels home-ported on Guam and involved in the tourism trade, such as dinner-cruise boats, diving and fishing charter boats, submersibles and rental craft.

6.6. Exempt During Daylight Hours Only. The following vessels, *not* otherwise exempt as provided for in § 6.5 above, may enter, exit and be operated in the Harbor without the assistance of a Harbor Pilot, but *only* during daylight hours:

(a) vessels under five hundred (500) gross tons; *provided*, that the Vessel Master has previously entered and exited the Harbor while operating a vessel with the assistance of a licensed pilot; and *provided*, that the Vessel Master or mate on board the vessel is able to communicate in the English language with the Harbor Master and the Captain of the Port; and *provided*, that adequate two (2) way communications between the vessel and the Harbor Master and the Captain of the Port are continuously maintained, either directly or through the vessel's agent, while the vessel is underway in Guam Waters; *and*

(b) tugs and tows home-ported on Guam or the Commonwealth of the Northern Mariana Islands; *provided*, that the master of the tug and tow has previously entered and exited the Harbor while operating a vessel with the assistance of a licensed pilot.

6.7. Exception for Safe Navigation. This Section is *not* intended to negate or limit the Harbor Master's responsibility for the safe navigation of all vessels within Guam waters. Accordingly, the Harbor Master may recommend or require the assistance of a pilot for any vessel exempt by this provision *if* the Harbor Master determines such is necessary to ensure safety in any port or other waters of Guam.

6.8. Priority for Pilot Services.

(a) A Harbor Pilot will offer the Harbor Pilot's services in the order of priority established by the Harbor Master, *unless* another vessel is observed approaching a dangerous position in which case effort will be made to offer to board and assist the latter vessel.

(b) All Harbor Pilots will aid and assist, by every means within their power, any vessel in distress.

6.9. Pilots to Bring Vessels to Berths Assigned by the Harbor Master.

A pilot bringing a vessel inward, *unless* required to anchor for quarantine, will bring the vessel to such wharf or berth as the Harbor Master may direct.

6.10. Pilots for Small Craft. Every person operating small craft in a Guam harbor, marina or other boating facility, or through channels or entrances leaving or approaching same, shall do so at their own risk. Harbor pilots can be made available for small craft, *if* desired, as set forth in the Sections above.

6.11. Pilot Licensing Rules and Regulations. The following rules and regulations adopted pursuant to the Compulsory Pilotage Act of 1999, Public Law Number 25-09:

(a) **License Required.** No person shall pilot, or offer to pilot, a vessel *not* exempt pursuant to these rules, *unless* that person has first obtained a pilot's license from the Port Authority.

(b) **License Qualifications.** The Port Manager shall issue a license upon: (1) application and payment of the application fee; (2) issuance or presentation of a United States Coast Guard license duly endorsed for the piloting of vessels into, out of and within the Harbor.

(c) **License Term and Automatic Renewal.** Each license shall be effective for a period of five (5) years and shall be *automatically* renewed upon application therefor, upon payment of the application fee, as long as the applicant possesses the *minimum* qualifications established by these rules and remains in active service as a pilot in Guam (refer 5. below). *However*, nothing herein shall prevent the suspension, revocation or denial of a pilot's license for good cause, in accordance with the provisions of these rules or applicable law.

(d) **Pilot License Fees.** Each applicant shall pay a fee of One Hundred Dollars (\$100.00) for a pilot's license, or for the renewal thereof. Such fees shall be payable to the Port Authority.

(e) **Denial, Suspension or Revocation.** In addition to any other action authorized by law or these rules and regulations, the Port Manager may deny the issuance of a pilot's license to any applicant and may suspend or revoke the license of any pilot for cause, including, but *not* limited to, the following:

- (1) violation of this Chapter or any rule or regulation of the Port Authority of Guam;

- (2) negligent pilotage;
- (3) habitual use or consumption of any substance rendering a harbor pilot unfit to be entrusted with the safe navigation of a vessel;
- (4) lack of ability to perform the duties of a harbor pilot;
- (5) failure to remain engaged in regular or active service as a pilot in Guam (i.e. completing *at least* five (5) trips each quarter or three (3) month period);
- (6) procurement of a license through fraudulent misrepresentation or deceit;
- (7) violation of any law or regulation prohibiting unfair or deceptive acts or practices;
- (8) violation of any law or regulation intended to promote marine safety or protect navigable waters or the environment;
- (9) failure to report a marine accident (i.e. any vessel grounding, collision, allision, oils or hazardous materials spill, or a failure of main engine, primary steering system, radar or echo depth sounder) in accordance with the rules and regulations of the Port Authority of Guam; *or*
- (10) failure to maintain a current and valid Federal pilots license or appropriate pilotage endorsement issued in accordance with Chapter 71 of Title 46 of the United States Code.

(f) Exhibition of License. A Harbor Pilot, upon boarding a vessel, and whenever required by the Vessel Master thereof, shall exhibit that person's pilot's license or a photocopy thereof.

(g) Piloting Without a License. *Unless* the person holds a current Guam license to do so, no person shall pilot or offer to pilot a vessel *not* exempt by these Rules. Nor shall any person on board a tug or tow boat tow, or agree to tow, a vessel or barge *not* exempt by these Rules, *unless* the vessel shall have on board a pilot duly licensed pursuant to these Rules.

(h) Rates of Pilotage. The Port Authority of Guam shall *not* provide or warrant the availability of pilot services, which shall be provided solely by the private sector. The terms of any contract for pilotage, including rates or pilot fees, shall be negotiated and agreed upon by the parties thereto, *except* as specifically provided herein.

(i) Complaints. Any person having a complaint against a Pilot shall make such complaint as soon as possible in writing to the Harbor Master, who shall *immediately* investigate the complaint and report thereon to the Port Manager. All complaints shall be processed and adjudicated in the manner provided in §§ 1.8 through 1.11 of these Rules and Regulations. A copy of each complaint shall also be *immediately* forwarded to the Captain of the Port.

(j) Pilot License Review Board. The Port Manager shall appoint a Pilot License Review Board, comprising the Harbor Master, who shall serve as its Chairperson, an Assistant Harbor Master, three (3) licensed Harbor Pilots (*not more than* two (2) employed by the same company), and two (2) members representing the shipping industry. Each member, *except* for the Harbor Master and the Assistant Harbor Master, shall serve for a term of two (2) years, or until replaced. The

purpose of the Pilot License Review Board is to review and recommend appropriate disposition of complaints and other disciplinary action against a Harbor Pilot to the Port Manager and the Port Authority Board of Directors. No pilot's license shall be suspended or revoked, or any disciplinary action taken, *unless* such action has been reviewed by a majority of the members of the Pilot License Review Board, or thirty (30) days have passed from submittal of the matter for such review. The Port Manager and the Port Authority Board of Directors shall consider the recommendations of the Pilot License Review Board *prior* to implementing disciplinary action.

7.0. TUG SERVICE.

7.1. Availability of Tugs. Tug escort services and assistance are available on a twenty-four (24) hour basis for the Harbor. All arrangements shall be made by the vessel's agent sufficiently in advance to ensure that all vessels *not* exempt by these Rules have adequate tug service.

7.2. Use of Tugs. A tug boat (or tugs) shall be used by all commercial vessels, exceeding two hundred fifty feet (250') in overall length entering, leaving or operating within the Harbor, *except* research vessels and vessels up to three hundred feet (300') in overall length equipped with an operational bow thruster. A fishing vessel's use of a skiff boat in lieu of a tug boat is permitted provided there is constant communication between the skiff operator and the Vessel Master.

7.3. Safety Exception. For reasons of safety, the Harbor Master may require any vessel to use the services of a tug or tugs.

7.4. Tow Capacity. Tow escorts shall be of sufficient capacity to safely tow the vessel should the vessel become disabled.

7.5. Length of Escort Service. Whenever weather and sea conditions permit, all tug escorts shall commence at Alpha Hotel (Pilot Station) and continue until the escorted vessel is safely and completely anchored, moored or docked in accordance with the Harbor Master's orders.

8.0. SAFETY, CLEANLINESS AND ENVIRONMENTAL REGULATIONS.

8.1. Handling of Explosive and Other Dangerous Articles.

Handling of shipments of explosive and other dangerous articles, as defined by the Titles 33 and 49, Code of Federal Regulations, will be permitted upon full compliance by the shipper, carrier and terminal operator with all applicable laws and regulations, including Research and Special Programs Administration and United States Coast Guard regulations governing the packaging, marking, labeling, handling and transporting of such articles.

8.2. Fire on Board Ship. In the event of fire occurring on board any vessel in port, *except* vessels underway, such vessels will sound five (5) prolonged blasts of the whistle or siren as an alarm indicating fire on board or at the dock to which the vessel is moored. Such signal will be repeated at intervals to attract attention and is *not* a substitute for, but shall be used in addition to, other means of reporting a fire. The words "prolonged blast" shall mean a blast from four (4) to six (6) seconds in duration. This signal shall *not* be used for any other purpose.

8.3. Explosives. *Except* for Department of Defense vessels, no vessel containing more than twenty-five (25) short tons of Class 1.1 and 1.2 (old classes A and B explosive) as specified in 49 C.F.R. 176.100, and certain 1.5 and 5.1 materials as specified in 49 C.F.R. 176.415 may enter the Harbor, *except* as authorized, in writing by the Captain of the Port.

(a) No facility may discharge from, load on, handle, or re-stow on board Class 1.1 and 1.2, and certain 1.5 and 5.1 materials without

notifying the Harbor Master and obtaining a permit from the Captain of the Port.

(b) All vessels entering or departing Apra Harbor with *less than* twenty-five (25) tons of explosives on board may conduct cargo operations as follows:

(1) cargo stored within forty feet (40') of any explosive container shall *not* be disturbed or moved; *and*

(2) cargo stored above and below of any explosive container shall *not* be disturbed or moved.

8.4. Handling, Loading and Unloading of Explosives. All handling and loading or unloading of explosives shall be done in a safe and careful manner, and in accordance with all Federal laws and regulations pertinent thereto.

8.5. Hauling of Explosives. All hauling of explosives away from or to the pier shall be done in a safe and careful manner and in accordance with applicable laws and regulations of the Guam Fire Department.

8.6. Storage of Hazardous Cargo. No nitrate of soda, nitrate of ammonia, sulfur or other hazardous or toxic substance shall be stored or left upon any wharf for *more than* four (4) hours, *unless* packed in sound and leak-proof containers. Such materials shall be under the continuous care of a competent watchman satisfactory to the Harbor Master until removed. The cost of such watchmen shall *not* be borne by the Port Authority.

8.7. Removal of Hazardous Materials. Indiscriminate sweeping of spilled hazardous material is an unsafe practice. The identity of spilled cargo shall be *immediately* determined. The Captain of the Port shall be

notified of all hazardous material spills on board ship, in the water, or on the pier or facility. *Except* in an emergency situation, no removal or cleanup efforts shall be undertaken without approval of the Captain of the Port.

8.8. Removal of Acid From Wharf. Acids of a dangerous character such as sulfuric, muriatic and nitric acids shall be removed from the wharf *immediately* upon discharge from the vessel, and no such acid shall be put upon a wharf for shipment until the carrier is ready to receive it. Permission of the Harbor Master must be secured in the event it becomes necessary to handle such cargoes at times other than specified.

8.9. Hazardous and Flammable Substances in Leaky Containers.
No gasoline, distillate, kerosene, benzene, naphtha, turpentine, paints, oils or other flammable substance shall be delivered onto any wharf in leaky containers without authorization from the U.S. Coast Guard and necessary permits from Guam and the U.S. Environmental Protection Agency. All such substances unloaded from any vessel in a leaky container shall be removed *immediately*.

8.10. Combustible Materials *Not* to Be Flame-Treated. No combustible materials, such as pitch, tar, resin or oil shall be flame-treated on board any vessel without the permission of the Harbor Master.

8.11. Vessels Fumigated or Smoked at Dock. No vessel shall be fumigated or smoked at any wharf without permission, in writing, from the Port Manager or Harbor Master and approval from local and Federal authorities.

8.12. Fuel Burning Steam Generating Appliances. All fuel burning steam generating appliances, when used on any wharf under control of the

Port or on any scow, pile driver or other vessel working alongside or near any wharf, shall be equipped with spark arresters satisfactory to the Harbor Master. At the close of each day's work all ashes and cinders shall be promptly removed and shall *not* be disposed of in, near or upon the waters of the Harbor.

8.13. Repair, Manufacturing, Construction Work or Maintenance Work. No person shall make any repairs or do any kind of manufacturing, construction or maintenance work on any wharf without the permission of the Port Manager or Harbor Master.

8.14. No Smoking in Certain Areas. Smoking is prohibited at all times within any freight shed, or upon any wharf apron, and during the time cargo is being loaded, unloaded or stored on any un-shaded pier, *except* within areas designated by the Harbor Master and plainly marked "Smoking Area," and no person shall enter into, stand in or under, or pass through any such wharf or structure with a lighted pipe, cigar, cigarette, match, fire or any flame of whatever nature.

8.15. Use of Explosives. The use of explosives is strictly prohibited upon land, on any wharf, or in any shed or other structure, or in the waters in the immediate vicinity of the same, without the written approval of the Harbor Master and appropriate permits from local and Federal agencies.

8.16. Loading and Unloading of Flammable Materials. Loading or unloading of flammable liquids shall be in strict accordance with applicable Federal and Guam laws and regulations (ref. 33 C.F.R. 126.15(0), Subpart L).

8.17. Welding and Burning Operations on Piers and Wharves and Aboard Vessels.

(a) **Hot Work Permit.** *Before* any welding or burning operations can be done on wharf or waterfront facility, it is required that the party intending to do such work secure a permit from the Port Authority Safety Office and the Captain of the Port. All hot work operations on board ships will be conducted in accordance with 29 C.F.R. 1915, Subpart B.

(b) **Inspections.** *Before* any welding, burning, spark or flame-producing operations are undertaken aboard any ship, dock, wharf or waterfront facility, all spaces subject to the accumulation of dangerous gases or gas-producing materials, in or on which hot work is to be performed, and such other spaces as may be required by the U.S. Coast Guard, or required under the provisions of National Fire Protection Association Standards, shall be inspected by a Marine Chemist or a licensed Industrial Hygienist. The Captain of the Port may also authorize, in writing, "U.S. Coast Guard Authorized persons" to conduct such inspections on a case-by-case basis. This authorization and certificate will be limited to the specific incident or specific vessel identified.

(1) Such spaces shall include, but shall *not* be limited to, oil and ballast tanks, cofferdams, void spaces, boiler and machinery spaces, pump rooms, compartments treated with combustible rust preventatives, including hollow rudders and skegs, paint lockers and shaft alleys.

(2) On completion of inspection, a certificate shall be issued setting forth, in writing, the conditions found at the time of

inspection and indicating by appropriate designations whether or not the contemplated repairs or alterations can be undertaken with safety.

(3) One (1) copy of the Marine Chemist or licensed Industrial Hygienist or U.S. Coast Guard - authorized person's Certificate shall accompany the application for a permit, and one (1) copy shall be left aboard ship or waterfront facility, preferably posted in a conspicuous place near the gangway.

(4) Hot work shall be performed in the locations and under the procedures designated in writing on the permit and Marine Certified Chemist's Certificate.

(5) Loading or moving of cargo or the movement of the ship from one (1) location to another within the shipyard or installation for which a Marine Chemist or a licensed Industrial Hygienist Certificate has been issued is permissible without requiring an additional inspection, and the issuance of a Marine Chemist or a licensed Industrial Hygienist Certificate, when in the judgment of the Marine Chemist or licensed Industrial Hygienist or U.S. Coast Guard - authorized person, such movement will *not* create a hazardous situation. *However*, the movement of ships from one (1) jurisdiction area to another shall require an additional inspection, and the issuance of a new Marine Chemist or a licensed Industrial Hygienist Certificate before continuing hot work.

(6) All welding and burning operations shall be under the supervision and control of a competent foreman or supervisor who shall see that all regulations pertaining to welding or burning operations are complied with.

(c) **Operations.** In all types of operations, fire prevention shall be the watchword, and all workmen should bear in mind that fire prevention is their individual responsibility. All combustible materials must be removed from the area in which the welding and burning operations are being conducted, or properly protected *if* removal is *not* feasible.

(1) Welding or burning operations shall *not* be conducted around hatches or companionways, *unless* they are sealed with their own cover or door. In the event this is *not* possible, an asbestos blanket or other flameproof material may be substituted in their place. Such substitutions shall require the approval of the inspecting authority issuing the permit.

When welding or burning operations are being conducted in such locations that sparks could spatter or fly over the outside of the ship's hull, a protective shield composed of metal or other flameproof material shall be provided to prevent the sparks from igniting the wharf or dock, barges or oil slicks on the water, or other combustible materials.

Water-charged fire mains, with hoses and nozzles attached of sufficient length so that the water can reach the base of any fire which may occur, shall be on each deck of the ship where welding

or burning operations are being conducted. A fire watch shall be provided in each space that is in direct contact with the surface where hot work is taking place.

When welding or burning operations are conducted on a wooden wharf, or a fire-resistant paved wharf with cracks or crevices, the entire surrounding area shall be drenched with water by means of a hose line and kept wet during the entire operation to prevent sparks from igniting the flooring or timbers below.

(2) No refueling of equipment with flammable petroleum products will be permitted on any pier or wharf without approval from the Port Authority Safety Office and the Harbor Master.

(3) On waterfront facilities which are used for repair work, no gasoline or other flammable liquid shall be stored, *except* as required for normal operations and then only when stored in approved containers and in quantities approved by the Port Authority Safety Office.

(4) Petroleum based cleaning fluid which has been treated to satisfactorily reduce the flash point may be used for washing grease from machinery parts in an approved location safe for hot work operations. All paints or other flammable liquid materials shall be kept securely covered, *except* when in actual use.

(5) Gasoline-powered generators or compressors shall *not* be operated on the vessel, but must be kept on the wharf. Said equipment shall be equipped with a spark arrester on the exhaust pipe, and the drip pan set in a position to protect the wharf in the

event of any gasoline or oil being spilled. An attendant shall stand by at all times equipped with an approved fire extinguisher to extinguish any fires which may occur. At the conclusion of operations, said gasoline-powered equipment shall be removed from the wharf. Where insulated wire cables are in the path of traffic, they shall be protected from damage by crossovers, and where they lead into the ship they shall be protected from chafing damage by a protective-wrapped covering. Where electrical cables lead from one (1) vessel to another, the same protective measures shall be used.

(6) When acetylene or oxygen cylinders are used, the following precautions shall be followed at all times:

(i) Compressed gas cylinders shall be used in a vertical position only, and shall be secured at all times to prevent falling. Cylinders, when in use, shall be kept on the pier at all times.

(ii) Do *not* drop cylinders; ruptured cylinders may explode. Do *not* use cylinders for rollers, anvils or supports.

(iii) When cylinders are *not* in use, close valves and replace protective caps.

(iv) Cylinders shall *not* be handled by cranes, *except* when they are placed in specially constructed bottle racks or in a skip box. Under no circumstances shall gas cylinders be hoisted by a magnet, manila line, steel cable, chains, slings or nets.

(v) Cylinders *not* in use shall be secured on a wheeled truck so they can be easily moved *if* a fire occurs in the immediate vicinity.

(vi) When permanently installed on a pier and exposed to the sun, cylinders shall be provided with adequate protection from the heat.

(vii) Valve and hose connections shall be kept tight to prevent leaks. Leaks shall be tested with soapy water and *not* with flame.

(viii) Cylinders shall be kept away from sparks, flame or heat.

(ix) Under no circumstances shall smoking be permitted in the vicinity of gas cylinders, whether or *not* burning/welding operations are in progress.

(x) Acetylene hoses shall be tested frequently for leaks. *If* acetylene has been escaping in confined areas, the areas shall be properly ventilated and cleared of all gas, and the area tested and inspected by a competent person, before welding or burning operations are resumed.

(xi) No acetylene torch shall be left unattended while burning. When not being used the hose shall be coiled or looped in a workman-like manner, and placed on a bracket at the cylinders, and the pressure in the hose relieved by closing off the valves on the cylinders and opening the valves on the torch. Lines left unattended during meal times

or other extended periods shall be either removed from compartments or disconnected at the cylinders.

(xii) Oxygen cylinders shall be kept free from oil and grease at all times, because oxygen under pressure brought into contact with oil or oily substances oxidizes so rapidly that an explosion may occur.

(xiii) Oxygen shall *not* be used to blow out oil pipes, for paint spraying or for pneumatic tools, as an explosion might occur.

(xiv) Compressed gas cylinders shall *not* be refilled on any wharf.

(d) Notification of Other Agencies. When the Harbor Master or the Port Authority Safety Officer issues a permit to do hot work, the appropriate Federal and local agencies shall be notified of such action. When hot work is being done in the Harbor, the U.S. Coast Guard Marine Safety Officer on duty at the time and the Harbor Master shall be *immediately* notified.

8.18. Bunkering.

(a) *At least* four (4) hours *prior* to bunkering vessels at any wharf or berth, the supplier shall first obtain permission from the Harbor Master.

(b) The U.S. Coast Guard Marine Safety Office must be notified *at least* four (4) hours in advance for bunkering operations at anchorage for all vessels with a capacity greater than two hundred fifty (250) barrels of oil (refer 33 C.F.R. 156).

(c) During bunkering operations in which bunkers are being taken through an open fuel intake or from a fuel tank truck, where a fire hazard may exist, cargo operations shall cease. This shall *not* apply when bunkers are taken from a pipeline connected by gasketed joints directly to the vessel piping system. *However*, the Harbor Master or Safety Officer may direct that operations be discontinued when an oil spill occurs (as from a broken hose or ruptured gasket) or *if* a potentially hazardous situation exists.

(d) No welding, burning or other types of work that may create hazardous conditions shall be permitted while bunkering operations are in progress. This time period shall commence from either (1) when the tank truck arrives onto the wharf; (2) when a hose is hooked up to the wharf's fuel line; or (3) when the vessel's bunkering connection is opened. The time period shall cease when either (1) the tank truck is off the wharf; or (2) the wharf and vessel fuel connections have been secured.

(e) The mooring lines of the vessel shall be checked *prior* to the bunkering operation to ensure they are secure and to prevent any surging.

(f) *Prior* to any fuel line hook-up being made or a fuel hose stretched to a vessel, a grounding line shall be connected from the vessel to the wharf. This grounding line should be connected first to the vessel and then connected to the shore ground.

(g) *Except* when bunkers are taken from a pipeline connecting through the gasketed joints directly to the vessels piping system, all

engines, motors, fans and other devices liable to produce sparks located closer than fifty feet (50') shall cease operation. On small craft, such as fishing boats and pleasure boats, all ports, windows, doors and hatches shall be closed.

(h) *Only* intrinsically safe flashlights may be used during bunkering operations.

(i) Drip pans will be placed under all points where fuel could leak onto either the wharf, decks or into the harbor, and scuppers shall be blocked to prevent fuel from escaping into the Harbor.

(j) There shall be no smoking, lighting of matches, lighters or use of other devices producing sparks or flame or the throwing of switches (other than certified non-sparking types) on all vessels bunkered at berths.

(k) No unauthorized persons shall be allowed either onboard the vessel, or in the immediate vicinity of the bunkering point.

(l) When a hose and nozzle are used during bunkering operations, the nozzle must be kept in continuous contact with the vessel's fuel intake opening to eliminate the possibility of static sparks.

(m) For all vessels with a capacity greater than two hundred fifty (250) barrels of oil, a person in charge with the proper endorsement required by 33 C.F.R. Part 155.700 shall be stationed in the vessel by the fuel intake at all times while the discharge operation is in progress. For all transfers to U.S. or foreign vessels, in accordance with 33 C.F.R. Part 156.120, the vessel and facility person in charge shall both be stationed at the site of the transfer operation while the operation is in progress.

Such person should have a good command of the English language in order to communicate with shore personnel. Should there be no one in the crew capable of this, an interpreter must be present during the entire fueling operation.

(n) Upon completion of the taking of bunkers, all shore connections must be closed and the vessel's filling lines closed *prior* to disconnection of the grounding lines. The grounding lines shall be disconnected from the shore first, then from the vessel.

(o) Any spilled oil or fuel shall be cleaned up *immediately*. The vessel should be ventilated thoroughly before the opening of doors, hatches, portholes, etc., or the operating of any spark-producing mechanism, to dispel any fumes for *at least* five (5) minutes before resuming normal operations. On small craft, such as fishing boats and pleasure craft, particular attention should be paid to ensuring that fumes have *not* accumulated in the bilges, hatches or other below-deck spaces.

(p) The Harbor Master shall be notified upon completion of all bunkering operations.

(q) Compliance is also required with all other Federal and Guam laws and regulations pertaining to bunkering, *not* specifically mentioned above, such as the flying of a red ("Baker") flag.

9.0. USE OF WHARVES.

9.1. Cleanliness of Wharves. All wharves, sheds and open areas which may be used for the handling of cargo shall be kept in a clean and sanitary condition, and free from all obstructions.

9.2. Charges for Cleaning Wharves Assessed Against Vessel. In cases where the Port Authority takes over the cleaning of wharves, sheds or open areas, a charge shall be computed as the total cost of labor and/or materials used and shall be assessed against the vessel which is responsible for the cleaning.

9.3. Identification of Owner of Mobile Equipment. The owner and lessor, *if* under lease, of all mobile equipment used on any property under the control of the Port Authority in connection with the handling of cargo or shipping containers, such as forklifts, cranes, tractors, straddle trucks, chassis or other equipment, shall be clearly identified on such equipment.

9.4. Admittance of Vehicles into Port Area. No vehicles shall be admitted upon any wharf or in any other area used for the storage of cargo, *except* for the purpose of delivering or picking up freight, *unless* the owner thereof has been granted a permit by the Port Manager or the Harbor Master.

9.5. Speed of Vehicles in Port Area.

(a) Trucks and other vehicles entering upon a wharf for the purpose of delivering or picking up freight shall *not* be driven at a speed *greater than* ten (10) miles per hour. Mobile equipment used in the handling of freight during cargo loading and unloading operations shall be under the direct supervision of a stevedoring foreman and shall *not* be operated at a speed *greater than* ten (10) miles per hour.

(b) Trucks and other vehicles operating in Container Yards shall *not* be driven at a speed *greater than* fifteen (15) miles per hour.

(c) Vehicles on roadways adjacent to wharves and pier sheds shall *not* be driven at a speed *greater than* fifteen (15) miles per hour, *unless* otherwise indicated by appropriate traffic signs.

9.6. Motor Vehicle to be Equipped with Fire Extinguisher. All vehicles entering upon Port Authority facilities shall have a fire extinguisher. Vehicles used to convey the sick or the infirm, ambulances and vehicles of hospitals and/or the health or police departments, and other vehicles used for official government business, may enter upon wharves without a fire extinguisher.

9.7. Paragraphs 9.5 and 9.6 Not to Apply to Vehicle Being Shipped. The provisions of Paragraphs 9.5 and 9.6 shall *not* apply to vehicles left on a wharf for the purpose of shipping the same on any vessel, nor shall they apply to any vehicle which has been discharged as freight.

9.8. Fowl, Animals or Livestock on Wharves. No fowl, animal or livestock of any kind shall be allowed to remain on any wharf for a period longer than six (6) hours without being fed and watered. After any fowl, animal or livestock shall have been unloaded on a wharf, it shall be removed from the same within twenty-four (24) hours. No shipment of fowl, animal or livestock subject to quarantine shall be unloaded from a vessel, *unless* cleared by the Department of Agriculture, or *unless* arrangements have been made for acceptance for quarantine. All such fowl, animals and livestock requiring quarantine shall be removed from the wharf within eighteen (18) hours. All expenses incurred in the care and maintenance of fowl, animals or livestock

while on a wharf shall be paid by the consignees thereof, and the Port Authority shall have a lien upon same until all expenses are paid.

9.9. All Vehicles Subject to Orders of the Harbor Master.

All vehicles operating on any wharf shall be subject to the orders of the Harbor Master.

9.10. Placement of Goods and Equipment. Any person handling goods or using equipment on a wharf, or bringing goods thereon for shipment, shall place, store or stack such goods or equipment in such a way as *not* to be an impediment to approaches to the wharf, nor an obstacle to the removal of other goods, nor cause damage to the wharf. No goods shall be so placed as to restrict or prevent the use of mooring bitts, cleats, bollards or other devices used for mooring purposes. No goods shall be so placed as to restrict or prevent the use of tracks, water connections, fire hydrants, gutters, oil and bunker connections or drains.

9.11. Closing of Wharves. The Harbor Master may close any wharf, or any portion thereof, or restrict the use of the same whenever in the Harbor Master's opinion such closure or restriction is necessary to ensure the safety, health or welfare of the public. No person shall enter whenever in the Harbor Master's opinion it is not advisable to do so. No person shall enter upon a wharf so closed or restricted without the permission of the Harbor Master.

9.12. Suspension of Port Operations.

(a) The Port Manager or Harbor Master may order the suspension of any loading or unloading operation, bunkering repairs or other operations when in that person's opinion such suspension is necessary to ensure the safety, health or welfare of the public.

(b) At the request of any other agency or department, the Port Manager or Harbor Master may order the suspension of operations upon a wharf to ensure the safety, health or welfare of the public, or for law enforcement purposes.

9.13. Handling of Goods on Wharf - Responsibility for Damaged Freight Due to Weather Conditions. It is the responsibility of shipping companies, owners and consignors to ensure that freight is adequately protected from weather damage while same is stored on wharves. This responsibility will include provision of adequate covering, closing of all openings, such as outside doors, windows and inspection openings, and the placing of freight on pallets or dunnage so that it will *not* be damaged by moisture from the shad floors. The Port Authority shall *not* be responsible or liable for damaged freight due to inadequate weather protection.

9.14. No Landing of Items That Can Cause Damage. No goods or articles of any description, which are likely to cause damage to property or injury to persons, shall be landed, discharged or unloaded upon any wharf without the prior permission of the Harbor Master.

9.15. Rubbish, Ashes or Refuse on Wharves. No person shall place or leave any ashes or rubbish on any wharf, *except* in areas designated for that purpose, without the permission of the Harbor Master.

9.16. Objectionable Materials on Wharves. No objectionable materials, such as decaying or putrefying vegetable matter, manure or bedding straw shall be left on any wharf. All such material shall be removed *immediately*.

9.17. Dead Animals on Wharves. No dead animal shall be left on any wharf, in the waters or on the shores of any harbor or upon any reef adjacent to any such harbor without the permission of the Harbor Master.

9.18. Dead Animals in Water. No dead animal shall be moved through the waters of any harbor without the consent of the Harbor Master.

9.19. Goods Unfit to Remain on Wharves. Any freight which, in the opinion of the Harbor Master, is unfit to remain upon any wharf, or which may be harmful to other freight on such wharf shall, *if necessary*, be removed by the Harbor Master at the expense of the owner or consignee.

9.20. Rubbish, Swill, Garbage Placed in Harbor. No rubbish, swill, garbage or refuse shall be thrown, washed overboard or placed in the Harbor or upon any wharf.

9.21. Ballast, Etc., Landed on Shores of Harbor. No ballast, rock, stone, slate, slag, gravel, sand, earth, cinders, rubbish, filth, garbage or other noxious substance shall be deposited upon any of the shores, property or facilities under the control of the Port Authority, *unless* approved by the Port Manager.

9.22. Ballast, Etc., Procedures For Landing. When any ballast, rock, stone, sand, fertilizer, grain or other loose material is being handled between a vessel and any wharf or vice-versa, or between two (2) vessels within any harbor, a canvas chute or other means satisfactory to the Harbor Master shall be used to prevent any part of the material being handled from falling into the Harbor or onto the wharf.

10.0. PRIVATE ACTIVITIES.

10.1. Private Use of Port Authority Property and Facilities.

(a) **General Statement.** No use of any property or facility owned or controlled by the Port Authority for commercial or personal purposes is permitted, *except* as authorized by these Rules and Regulations.

(b) **Business Activities.** No person shall engage in any business or commercial activity, including commercial sub-leases, on Port Authority-owned or controlled property without the *prior* written approval of the Port Manager.

10.2. Non-Commercial Activities.

(a) The following activities are prohibited on or within any Port Authority property or facility *if* conducted by a person to or with passers-by in a continuous or repetitive manner:

- (1) the sale or distribution of any merchandise, including, but *not* limited to, jewelry, food stuffs, candles, flowers, badges and clothing;
- (2) the sale of flyers, brochures, pamphlets, books or any other printed or written material;
- (3) the solicitation and receipt of funds;
- (4) the sale of any service;
- (5) the sale of any raffle ticket or entry in a game of chance; *and*
- (6) the conduct of a game of chance.

(b) The continuous or repetitive distribution of flyers, brochures, pamphlets, books or any other printed or written material is prohibited, *unless* conducted pursuant to the following provisions of this Rule:

(1) Each person distributing literature or any other material on behalf of that person, another individual or an organization, must hold a valid leafleting permit and conduct the activity in conformity with applicable laws, regulations and terms of the permit. Each leafleting permit shall describe the material to be distributed and location where it may be distributed.

(2) Each time a person enters Port Authority property or facilities to distribute literature pursuant to this Rule, that person must report their arrival to the Port Manager and sign in *prior* to distributing literature. *If* a leafleting permit has *not* been issued by the Port Manager pursuant to § b(1) above, the person will *not* be permitted to distribute literature pursuant to this Rule. Each time a person leaves the Port Authority property or facility, after distributing literature, that person must report such departure to the Port Manager and sign out upon cessation of distribution of literature.

(3) Permits for distribution of literature will be issued on a first-come, first-served basis. Each person distributing literature on behalf of an organization must display an identification badge that states the name of the organization or person represented.

The badge will be worn on the upper left breast of the outermost garment and be clearly visible.

(4) The distribution of literature pursuant to this Rule is permitted *only* at the locations designated in § c(6) below. Access to these locations will be granted on a first-come, first-served basis each day upon request. No more than three (3) representatives of a single organization or person are permitted to distribute literature at any one (1) location at any one (1) time.

(5) A table may be used in connection with the distribution of literature pursuant to this Rule in the following manner only: only one (1) table, which may *not* exceed fifty-two inches (52") in length and thirty inches (30") in width, may be used at each location.

(6) The distribution of literature shall be conducted *only* between the hours of 10:00 A.M. to 5:00 P.M.

(7) The Port Manager may prohibit the distribution of literature otherwise permitted by this Rule in the event of a tropical storm or typhoon, vessel accident, vessel delay, power failure, transportation strike or other event or condition under which the distribution of literature in such space creates a danger to persons or property, interferes with the orderly formation and progression of waiting lines, or interferes with any of the following: pedestrian and/or vehicular travel; the issuance of tickets or boarding passes, or equivalent documents for sea or ground transportation; luggage or cargo movement or handling;

the entry to and exit from vessels or vehicles; security procedures; government inspection procedures; cleaning, maintenance, repair or construction operations.

(c) The sale of any written or printed matter and the solicitation of funds from the general public for non-commercial purposes (“solicitation activities”) are prohibited, *unless* conducted outside the Administration Building and in full compliance with the following provisions of this Rule:

(1) Each person conducting a solicitation activity must hold a valid solicitation permit issued by the Port Manager and conduct the activity in conformity with applicable laws, regulations and the terms of the permit. Each solicitation permit shall describe the activity authorized and the area in which it may be conducted.

(2) Each person who seeks to engage in a solicitation activity on Port Authority property may do so *only* in connection with religious expression or as a representative of a non-commercial organization. Each such person shall *immediately* be given a single permit upon submission of an application, signed by the applicant, containing the following:

(i) the applicant’s name, address and telephone number;

(ii) the name, address and telephone number of the organization that the applicant represents, and a letter or other documentation that the applicant has authority to

represent that organization (submission of this document is not required of an individual who is not representing an organization);

(iii) the name and title of the person in the organization who will have supervision of and responsibility for the activity at the Port Authority, *if applicable*;

(iv) statement that the sale of printed matter and/or the solicitation of funds is for a non-commercial purpose; *and*

(v) one (1) of the following:

(aa) a statement signed by the applicant that the applicant represents, and will be soliciting funds or selling written or printed matter for the sole benefit of a religion or religious group;

(bb) a statement signed by the applicant that the applicant represents, and will be soliciting funds or selling written or printed matter for the sole benefit of a political organization, a function of which is to influence the nomination, election or appointment of one (1) or more individuals to Federal, state or local public office; to influence Federal, state or local legislation; or to advocate issues or causes to the public;

(cc) a statement signed by the applicant that the applicant's organization has received an official Internal Revenue Service ("IRS") ruling or letter of determination stating that the organization or its parent organization qualifies for tax-exempt status under 26 U.S.C. §§ 501(c)(3), (c)(4) or (c)(5);

(dd) a statement signed by the applicant that the applicant's organization has applied to the IRS for a determination of tax-exempt status under 26 U.S.C. §§ 501(c)(3), (c)(4) and (c)(5), and that the IRS has *not* yet issued a final administrative ruling or determination on such status; *or*

(ee) a statement signed by the applicant that the applicant's organization has on file with the Department of Revenue and Taxation, government of Guam, a current registration statement in accordance with § 651 *et seq.* of the Civil Code of Guam.

(3) Failure to submit all the information required by Paragraph (b) of this Section shall result in denial of a solicitation permit. Upon submission of a completed and signed application, a solicitation permit shall be issued *unless* all available permits have been issued to prior applicants.

(4) Applications for solicitation permits must be submitted to the Port Manager. Permits will be granted on a first-come, first-served basis. The areas will be assigned on a first-

come, first-choice basis. The permits are *not* transferable, *except* among individuals who have completed and submitted applications for the same permit.

(5) Each solicitation permit shall authorize the holder to conduct a fundraising activity for a period of *up to* forty-eight (48) hours. Permits shall *not* be extended or renewed. After the expiration of the permit, a new solicitation permit may be issued to the former permit holder upon request or submission of a new application respectively. In such a case, applicants may be permitted to incorporate by reference any required documentation filed with a previous application.

(6) Each permit shall specify the area in which the solicitation activity may be conducted by the permit holder. Permits shall be issued for the following areas up to the maximum number indicated:

(i) the sidewalk in front of the main entrance and main exit of the Administration Building - five (5) permits;

(ii) the sidewalk in front of the entrance and exit to the Port Terminal - five (5) permits; *and*

(iii) the sidewalk in front of the Board of Directors Office - five (5) permits;

(7) Nothing in this Part shall be construed as impairing or expanding any right which a Port Authority lessee may otherwise have, by virtue of its leasehold interest in Port Authority property,

facilities, or premises, to regulate access to those areas under its exclusive control.

10.3. Prohibited Conduct Relating to Non-Commercial Activity.

No person may conduct any non-commercial activity within or outside a Port Authority building or facility:

- (a) without a permit or with a permit that has expired;
- (b) with a permit issued upon an intentionally false application;
- (c) with a permit outside the area designated on the permit;
- (d) within ten feet (10') of the following:
 - (1) a security screening point;
 - (2) premises leased for the *exclusive* use of a concessionaire;
 - (3) restroom facilities;
 - (4) a stair, escalator or elevator;
 - (5) a doorway or entrance way;
 - (6) a motor vehicle with embarking or disembarking passengers;
 - (7) a public service information counter;
 - (8) a food court or the area adjoining a food or beverage facility; *and*
 - (9) persons waiting in line at any of the above listed areas;
- (e) *if* a person representing the non-commercial organization is selling written or printed matter, or soliciting funds without wearing or displaying, in a conspicuous manner, a solicitation permit and the name of the organization that the person represents;

(f) by intentionally touching or making physical contact with another person, or the vehicle by which the person is occupying, *unless* that other person has consented to such physical contact;

(g) by use of a loudspeaker, sound or voice amplifying apparatus;

(h) by setting up a table, counter or stand without the written permission of the Port Manager;

(i) by leaving any item unattended;

(j) by attaching any placard, sign, circular or other written material on any wall, post, counter, billboard or other surface; *and*

(k) by performing any ceremony, speech, song, carrying of any sign or placard, or other such activity which constitutes a danger to persons or property, or which interferes with any of the following: the orderly formation and progression of waiting lines; passenger, pedestrian and/or vehicular travel; the issuance of tickets or boarding passes or equivalent documents for sea or ground transportation; luggage or cargo movement or handling; the entry to and exit from vehicles; security procedures; government inspection procedures; cleaning, maintenance, repair or construction operations.

11.0. HARBOR ACTIVITIES.

11.1. Hazardous Floating Objects in Harbor. Whenever the disposal, salvage or transportation of a derelict craft, vessel or other object of any size, type or description, might, *if* sunk, lost or abandoned in the harbors, channels, shores or waters of Guam become hazardous to navigation, to dredging or to other operations of the Guam or Federal governments, or the public, the written permission of the Harbor Master shall be obtained *before* taking such action.

11.2. Sinking in Navigable or Off-Shore Waters. No vessel or other object of any size, type or description shall be let loose, sunk, dropped or abandoned in or on the navigable waters or shores of Guam. In the event of such occurrence, the Harbor Master shall be *immediately* notified and the owner shall take such action as is necessary for removal of the object. *If* the owner fails to take action to remove the object, the Port Authority will take such actions as are necessary for such removal and will charge all costs incurred to the owner. The Harbor Master may require the posting of a bond to assure such payment.

11.3. Connecting Up of Vessels to Water Supply System.

(a) No person shall connect a vessel's water supply system, siphon or other water-operated device, equipment or mechanism to a potable water supply system, or operate any water-operated device, equipment or mechanism connected to the water supply system, *unless* an approved backflow prevention device has been installed at the faucet or other point of connection. An "approved backflow prevention device" means a backflow prevention device that meets the

requirements contained in Standard 1001, American Society of Sanitary Engineers or the Uniform Plumbing Code adopted by the International Association of Plumbing and Mechanical Officials (“IAPMO”).

(b) No connection may be made from any vessel’s water supply system to a dockside water supply system without the written permission of the Harbor Master.

(c) No potable water may be supplied from a dockside water supply outlet without the use of a water meter.

11.4. Dumping of Sinkable Materials. All dumping at sea of sinkable objects or materials is prohibited, *unless* permitted by law. Letting loose of floating objects in the Harbor is strictly prohibited.

11.5. Dredging and Removal of Sand, Gravel, Rock, Etc. No dredging shall be performed, or any sand, gravel, coral, rock or topsoil removed from any areas under the control of the Port Authority, without the written permission of the Port Manager.

11.6. Construction of Structures. No buildings or structures of any nature whatsoever shall be erected or constructed on Port Authority property, nor shall existing structures be modified, without obtaining the written permission of the Port Manager and the approval of any other governmental agency as required by law. In general, approval will be dependent on an agreement to return the property to its original state when vacating the property or premises *if* requested to do so by the Port Authority.

12.0. SMALL CRAFT.

12.1. Small Craft Moorings.

(a) The Harbor Master may, consistent with applicable Federal and Guam laws and regulations, establish and allocate berths and moorings for small craft in Apra Harbor.

(b) Priorities for berthing and mooring in Apra Harbor shall be as follows:

- (1) commercial fishing boats, or boats hauling commercial fish cargoes;
- (2) charter boats;
- (3) other commercial craft; *and*
- (4) recreational craft.

(c) Berths shall be made available *only* when *not* required for large, commercial ocean-going vessels, or government owned/operated vessels, or for vessel for which prior long-term commitments have been made.

(d) Exceptions to the priorities in § (b), above, may be made *if* the Port Manager or Harbor Master believes that it is in the best interests of public safety, health and welfare.

(e) No vessel shall make fast to, moor, dock, anchor at or lay alongside any Port Authority controlled pier, wharf, quay, bulkhead, landing, dolphin, mooring or other moored vessel or anchored vessel in areas under the control of the Port Authority without the prior authorization of the Harbor Master.

(f) Any such vessel may be removed by direction from the Harbor Master.

(g) Any costs incurred by the Port Authority in removing such vessels shall be for the account of the owner, master, agent or operator of the vessel.

(h) Separate rules governing small craft use of, and navigation within, boat basins, marinas and other recreational boating facilities (i.e. Gregorio Duenas Perez Marina and Agat Small Boat Harbor) may be promulgated and should be consulted by the owners and operators of small craft in those facilities. In the event of any conflict between these Rules and Regulations and such separate rules, the latter shall govern the use of, and navigation within, those facilities.

(i) **Small Craft Mooring Permit/Request.** Any interested person, corporation or other legal body may apply for a mooring permit by completing in-full, the application provided by the Harbor Master. In the case of a legal body, association or other organized body, evidence of corporate existence and authority to submit that application shall be provided to the Harbor Master.

(j) **Issuance of a Mooring Permit.** A small craft mooring permit shall be issued on a first-come, first-served basis for a period *not to exceed* seventy-two (72) hours when: (1) a completed application has been submitted; (2) an agreement has been executed; (3) an adequate berthing or mooring facility becomes available; (4) the vessel is in an operating condition and capable of operating beyond the confines of the

harbor or other mooring facility on a regular basis; *and* (5) all required fees and charges have been paid.

(k) Cancellation of Mooring Permits. Mooring permits may be canceled for any of the following reasons: (1) the vessel berthed or moored is being used for illegal purposes; (2) the vessel constitutes a hazard to the Port Authority and/or vessels in the vicinity; (3) the permit has expired; (4) the vessel has been abandoned; (5) the vessel's owner, operator, charterer or lessee has been convicted of a crime relating to such vessel; or (6) violation of any Federal or Guam laws or regulations by such vessel.

12.2. Waterskiing, Operation of Personal Watercraft, Parasailing and Windsurfing.

(a) Waterskiing and Parasailing. These activities shall be prohibited in the outer harbor. Vessels and individuals engaged in these activities must operate in accordance with the Navigation Rules and any other special regulations put out by the U.S. Department of Transportation, U.S. Coast Guard. The activities of waterskiing and parasailing are prohibited within one hundred feet (100') of the following areas: (1) any berth, wharf, fairway, pier or quay; (2) any bridge; (3) any beach or other area set aside for swimming or bathing; and (4) any other areas designated by the Port Manager to protect public safety, avoid hazards to navigation or prevent interference with Port Authority operations.

(b) Personal Watercraft and Windsurfers. Personal watercraft and windsurfers must be operated in accordance with the Navigation

Rules and any other special regulations put out by the U.S. Department of Transportation, U.S. Coast Guard. This is especially so with regard to rights-of-way and safe speed when operating in close proximity to any berths, wharfs, fairways, piers or quays. Personal watercraft and windsurfers shall: (1) *not* be operated closer than fifty feet (50') to wharfs; and *if* forced to do so, they shall leave the area as soon as reasonably possible; (2) be allowed to operate within an area designated for swimming or bathing *only* to egress to/from the shoreline to waters outside of the designated swimming area; and they shall do so at a "no wake" speed and avoid people utilizing the swimming area; and (3) be allowed to operate within an area designated as a channel or fairway *if* using such fairway as a traffic lane or when crossing. In accordance with the Navigation Rules, such operation should *not* impede any vessel that is utilizing the fairway, *especially* a vessel restricted in its ability to maneuver.

12.3. Fishing Prohibited in Certain Areas. Catching of fish in the Harbor by any means or method is prohibited in the following areas: (1) all approaches to berths, wharves, channels, fairways and quays; (2) all berths where operations are in progress, such as the commercial piers and wharves, or where dredging is taking place; (3) off any bridges; (4) at or near any beaches *specifically* set aside for swimming or bathing; and (5) any other areas designated by order of the Port Manager to protect public safety, avoid hazards to navigation or prevent interference with Port Authority operations.

12.4. No Consumption of Alcoholic Beverages. Alcohol consumption in any facility under the jurisdiction of the Port Authority is *strictly* prohibited.

(a) Persons under the influence of alcohol or controlled substances are prohibited from entering into any wharves, piers, sheds, roads or open areas owned, or controlled by the Port Authority.

(b) The Port Authority *specifically* and categorically disclaims any liability for any accident incurred by persons under the influence of alcohol or controlled substances.

(c) Any damage to property and facilities owned or under the control of the Port Authority caused by persons under the influence of alcohol or controlled substances shall be repaired or replaced by the Port Authority, and will charge all costs incurred to the person responsible.

12.5. Safe Navigation in Apra Harbor. Recreational vessels operating in the Harbor shall adhere to the following standards of care to ensure safe operation:

- (a) ensure vessel is safe before getting underway;
- (b) ensure vessel is seaworthy;
- (c) keep flares and distress-calling equipment readily accessible;
- (d) be extra careful in bad weather;
- (e) avoid passing large vessels close aboard (Recreational vessel operators need to be aware that large vessels are severely limited in their ability to stop or alter course; that they are limited in their ability to sight small vessels due to blind spots that may extend more than one-

half (1/2) mile ahead; and that they cannot easily avoid a collision with a smaller recreational vessel.);

(f) pass tugs with caution;

(g) know where the traffic lanes, fairways and the regulated navigational areas are located;

(h) know how and when to monitor VHF channels 13, 14 and 16;

(i) know vessel's position at all times; *and*

(j) be an informed mariner:

(1) learn the maritime "Rules of the Road";

(2) read U.S. Coast Guard notices to mariners;

(3) monitor the weather and weather forecasts; *and*

(4) listen to Channel 16 for U.S. Coast Guard broadcasts.

4

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 12/7/01

VOTING SHEET

Bill No. 159 (COR)

Resolution No. _____

PL 72

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.	✓				
CAMACHO, Felix P.	✓				
CHARFAUROS, Mark C.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LEON GUERRERO, Lourdes A.	✓				
MOYLAN, Kaleo S.	✓				
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.					✓

TOTAL 14 0 0 0 1

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



THE OFFICE OF
Senator Felix P. Camacho
TWENTY-SIXTH GUAM LEGISLATURE

November 21, 2001

The Honorable Antonio R. Unpingco
Speaker
I Mina' Bente Sais Na Liheslaturan Guahan
155 Hessler Street
Hagatna, Guam 96910

Dear Mr. Speaker:

The Committee on Tourism, Transportation and Economic Development, to which was referred **Bill No. 159 (COR)**, "AN ACT TO ADOPT THE HARBOR RULES AND REGULATIONS OF THE PORT AUTHORITY OF GUAM," as substituted by the committee, does hereby report back with the recommendation **TO DO PASS**.

The Committee votes are as follows:

 8 **To Pass**
 Not To Pass
 To The Inactive File
 Abstained
 Off-Island
 Not Available

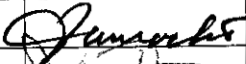


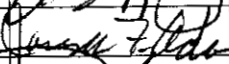


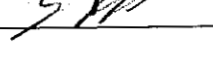
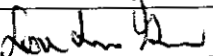
A copy of the Committee Report and all pertinent documents are attached for your information and file.

Sincerely,

Felix P. Camacho

VOTING SHEET

BILL 159 (COR)

RECOMMENDATION TO						
COMMITTEE MEMBERS	SIGNATURE	TO PASS	NOT TO PASS	TO REPORT OUT ONLY	ABSTAIN	INACTIVE FILE
Senator Felix Camacho		✓				
Senator Kaleo Moylan		✓				
Speaker Antonio Unpingco		✓				
Vice Speaker Larry Kasperbauer		X				
Senator Joseph Ada		L				
Senator Mark Forbes		✓				
Senator Eddie Baza Calvo		✓				
Senator Mark Charfauros						
Senator Ben Pangelinan						
Senator Tom Ada						
Senator Lou Leon Guerrero		✓				

COMMITTEE REPORT

ON

BILL NO. 159 (COR)

“AN ACT TO ADOPT THE HARBOR RULES AND REGULATIONS OF THE PORT
AUTHORITY OF GUAM.”

COMMITTEE MEMBERS

Chairman: Felix P. Camacho
Vice Chairman: Kaleo Moylan
Ex-Officio Member: Antonio R. Unpingco

Larry Kasperbauer
Joseph Ada
Mark Forbes
Eddie Baza Calvo
Mark Charfauros
Ben Pangelinan
Tom Ada
Lou Leon Guerrero

COMMITTEE REPORT
TOURISM, TRANSPORTATION AND ECONOMIC
DEVELOPMENT

BILL NO. 159 (COR)

“AN ACT TO ADOPT THE RULES AND REGULATIONS OF THE PORT
AUTHORITY GUAM.”

I. PUBLIC HEARING

The Committee on Tourism, Transportation and Economic Development held a public hearing on October 3, 2001, to hear testimony on the proposed Harbor Rules and Regulations of the Port Authority of Guam.

The hearing was called to order by Senator Felix P. Camacho, Chairman of the Committee on Tourism, Transportation and Economic Development. Members present were Senators Tom Ada and Lou Leon Guerrero, and Senators Frank Aguon and Joanne Brown also attended the hearing.

Port General Manager Francisco Camacho and Harbor Master Frank Santos were present to testify; Mr. Vic Torres testified on behalf of the local windsurfing community. Guam Sailing Federation President Mona Rekdahl submitted written testimony, which is attached.

II. TESTIMONY

HARBOR RULES AND REGULATIONS

Senator Felix Camacho said the only concerns about the regulations he heard with the rules were restrictions on windsurfing activities and tourism activities within the port that may have limited access for locals. He said he wondered if the September 11 attacks could lead to more security.

General Manager Francisco Camacho submitted written testimony, which is attached to the report, in favor of the rules and regulations.

Victor Torres, of the Guam Sailing Federation and board sailing fleet, said he was disappointed rules were promulgated since 1999 and he had no idea. He said he had no problem with the rules for the most part, but Section 12.2 would have an adverse effect on windsurfing and other watercraft activities. He noted that public access to family beach has already been restricted.

Mr. Torres said Section 12.2 prohibits waterskiing, watercraft, windsurfing, etc. He said the group has been windsurfing Apra Harbor for 15-20 years, as individuals and in competitions. In that time, he said he had no knowledge of any accidents or navigational interference. Mr. Torres added that what the port is proposing would prohibit people from fairly large areas of the port: for instance, he said the fairway definition splits the port in half and questioned if this language would prevent windsurfers from crossing the harbor as they have for years.

Mr. Torres noted that at most times, there is no traffic, and many vessels using the space are smaller. The fairway definition should be taken out, he suggested, noting that many regulations already exist, as the U.S. Department of Transportation has rules in place.

Mr. Torres said the group was disturbed that the Port was trying to restrict the activity, which is a viable component of tourism as demonstrated by the photos of windsurfers in Maui, San Francisco and other areas. He said they believed the proposed rules unfairly target windsurfers and are not justifiable under the port's operations. He suggested that the group work with the port to reach an agreement.

Senator Camacho said there hadn't been enough dialog between the two sides. The rules can be revisited; the port has tremendous potential for water sports activities, the senator said, so he wants the two sides to resolve their differences.

Harbor Master Frank Santos said there had been four public hearings on the rules and the different areas were designated with Parks and Recreation. He said they had discussed the set courses, and if sailing tournaments were taking place, the group would make a request for the port to notify vessels. Mr. Santos said they tried to place limits because they did not want to see any accidents. Some captains complain because windsurfers get too close, and the Coast Guard is concerned for their safety, he said.

Mr. Santos added that as soon as the rules and regulations are passed, the Coast Guard wouldn't interfere. He said the port wants to control the situation and safety is the number one concern.

Senator Camacho asked the Harbor Master to sit with the windsurfers and report back to the committee after reaching an agreement.

Senator Lou Leon Guerrero said she visits Family Beach and has seen kids snorkeling in the area. She said a person underwater can't really hear or see, but the jetskiers and sailers get too close to swimmers. She said she'd hate to see an accident where a person was decapitated, and the jetskiers get really wild at times.

Mr. Santos said the problem would be resolved when the courses were set; Senator Leon Guerrero said people don't always follow the courses. Mr. Santos and Senator Camacho agreed that the rules must be enforced.

Senator Camacho asked about Ski Beach, which Mr. Santos said is under Navy control. Senator Camacho also asked about potential security changes as a result of the Sept. 11 attacks. Francisco Camacho said the Coast Guard has asked the port to be more vigilant; activities may not be prohibited but security is definitely increasing. On the weekend, the port checks all vehicles coming in and vessels now hire security to watch them, he said.

Senator Camacho asked if the port would now pull its security from the governor's office – and Gill Shinohara – to the port for these duties. The port general manager said just one person is detailed.

Senator Frank Aguon pointed out that the port said they had discretion to treat special events or tournaments differently, but this provision is not provided for in the rules. Francisco Camacho said the coast Guard has asked for waterside security; he cautioned that the port would never be the same because of the security issues. Mr. Santos added that one new regulation prohibits tankers from coming in at night.

A second meeting was held on November 16, 2001. PAG General Manager Camacho, Harbor Master Frank Santos, Mr. Torres, Ms. Mona Rekdahl of the Guam Sailing Federation, Coast Guard Captain Rob Lorigan and Ms. Cathleen Moore-Linn attended. At the meeting, the parties agreed to amend the section regarding windsurfing.

III. FINDINGS

The Committee finds that Bill No. 159 (COR), "AN ACT TO ADOPT THE HARBOR RULES AND REGULATIONS OF THE PORT AUTHORITY OF GUAM," provides fair and reasonable guidelines for conduct within the harbor.

IV. RECOMMENDATIONS

The Committee on Tourism, Transportation and Economic Development hereby reports out Bill No. 159 (COR), as substituted by the Committee on Tourism, Transportation and Economic Development, with the recommendation ***TO DO PASS***.

Final Copy *3rd*
11/28/01 *11/28/01*

MINA BENTE' SAIS NA LIHESLATURAN GUÅHAN
2001 FIRST REGULAR SESSION

Bill No. 159 (COR)

As substituted by the Committee on Tourism,
Transportation and Economic Development

Introduced by:

F. P. Camacho

**AN ACT TO ADOPT THE HARBOR RULES AND
REGULATIONS OF THE PORT AUTHORITY OF
GUAM**

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the Port Authority of Guam's Harbor Regulations were last updated an
4 approved in 1978. Though those rules have served the island for more than 23
5 years, *I Liheslaturan Guåhan* finds that the rules and regulations should be
6 updated to reflect the changes that have occurred during this time period. After
7 conducting three public hearings on the rules, which were amended primarily
8 to refine the older regulations and to reflect changes in local and federal laws
9 and maritime management practices, the Port Authority of Guam's Board of
10 Directors approved an updated version of the rules and regulations on June 9,
11 2000. *I Liheslaturan Guåhan* finds that these rules and regulations should be
12 approved.

13
14 **Section 2. Approval of Harbor Rules and Regulations of the Port**
15 **Authority of Guam.** The Harbor Rules and Regulations for the Port
16 Authority of Guam ("the authority") that were adopted by the Board of

1 Directors for the authority on June 6, 2000, are hereby approved. These rules
2 and regulations are attached and incorporated herein.

3 Changes to these rules and regulations shall be made in accordance with
4 §10105 of Title 21, Guam Code Annotated and the Administrative
5 Adjudication Law.

6
7 **Section 3. Severability.** *If* any provision of this Law or its
8 application to any person or circumstance is found to be invalid or contrary to
9 law, such invalidity shall *not* affect other provisions or applications of this Law
10 which can be given effect without the invalid provisions or application, and to
11 this end the provisions of this Law are severable.

**ATTACHMENT 1
HARBOR RULES AND REGULATIONS
FOR THE PORT AUTHORITY OF GUAM**

**AMENDED HARBOR RULES AND REGULATIONS
OF THE
PORT AUTHORITY OF GUAM**

**Adopted by the Board of Directors of the
Port Authority of Guam on
June 9, 2000**

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1.0 ADMINISTRATIVE PROVISIONS

- 1.1 Authority:** The mission of the Port Authority of Guam (Port Authority), a public corporation and autonomous instrumentality of the Government of Guam, is to provide for the general needs of ocean commerce, shipping, recreational and commercial boating, and navigation in all territorial waters. 12 G.C.A. § 10102. PORT AUTHORITY is responsible for operating, maintaining and regulating the use of, and navigation within, portions of Apra Harbor, the Port of Guam, Hagatna Boat Basin, Agat Marina and all other public ports, harbors, boat basins and recreational boating facilities in Guam (ref. 12 G.C.A. §10101(c)).
- 1.2 Purpose:** These Harbor Rules & Regulations, promulgated pursuant to Title 12, Section 10105(g) and (h), Guam Code Annotated, are intended to provide for the effective management and operation, as well as safe and efficient use of, and navigation within, all public ports, harbors, boat basins and recreational boating facilities in Guam, and should be liberally construed to achieve those purposes.
- 1.3 Scope; Other Laws and Regulations:** All vessels making any use of, or navigating within, Apra Harbor or any other public port, harbor, boat basin or recreational boating facility for which no separate rules and regulations have been adopted by the Authority, shall comply with, and be governed by, these Rules and Regulations. In addition, such vessels shall at all times conform to the following:
- a. U.S. Coast Guard Regulations (33 C.F.R. Parts 1-199; 46 C.F.R. Parts 1-499);
 - b. Research and Special Programs Administration Regulations (49 C.F.R. Parts 100-185);
 - c. Federal Communications Commission Regulations (47 C.F.R. Part 80);
 - d. Territorial Boating Act (10 G.C.A. Chapt. 69);
 - e. Recreational Water Use Management Plan (21 G.C.A. §77119(f));

- f. Motorized Recreational Water Craft Regulations (Public Law 23-89);
- g. Coral and Fish Conservation (5 G.C.A. §63127);
- h. Fishing Regulations/Restrictions (5 G.C.A. §§63101-63609);
- I. Harvesting of Coral (5 G.C.A. §63602);
- j. Environmental Protection (40 C.F.R. 1-1517; 10 G.C.A. §47101);
- k. Compulsory Pilotage Act of 1999 (Public Law 25-09)
- l. All other applicable U.S. and Guam laws and regulations.

1.4 Non-Discrimination Policy: All services performed and activities conducted on property owned or controlled by the Port Authority of Guam shall be performed and conducted without discrimination or segregation against any individual regardless of their race, creed, gender or national origin. Violation of this policy shall constitute good cause for termination of any lease, concession, right, privilege, license, permit or other interest held by the violator.

1.5 Interpretation: If any provision of these Rules and Regulations is inconsistent with any law of the United States or any rule or standard established pursuant thereto, such provision shall be construed, superseded, or governed thereby. Nothing contained in these rules shall be construed to limit the powers of any United States or Government of Guam agency or officer.

1.6 Severability: The provision of these Rules and Regulations are declared to be severable and if any portion, or the application thereof, to any person or property is held invalid for any reason, the validity of the remainder of these rules, or the application of such remainder to other persons or property, shall not be affected.

1.7 Civil Penalties: Any person who violates any of these Rules and Regulations, or who fails to perform any duty imposed thereby, or to comply with any lawful order of the Port Manager, Harbor Master or Dock Master, while in the discharge of that officer's duties, shall be guilty of a misdemeanor. In addition, such person shall be subject to a

civil penalty not to exceed the sum of five thousand dollars (\$5,000) for each violation. The amount of each penalty shall be determined by the Harbor Master, in his discretion, subject to appeals first to the Port Manager and then to Board of Directors. The amount of each penalty shall be determined based on the gravity of the infraction, number of prior violations, extent of injury to persons or damage to property, and the violator's cooperation and willingness to comply with these Rules and Regulations. In addition to any penalty assessed, or as a condition to the suspension of any penalty, the offender may be deprived of the privilege of using any port, harbor or marina facility for a period of not more than two (2) years. All penalties shall be paid to the Port Authority.

1.8 Procedure for Assessment of Penalties: All complaints shall be in writing, signed and submitted to the Port Manager within thirty (30) days of the date the conduct complained of was first discovered. All complaints must be investigated within sixty (60) days. No penalty may be assessed more than sixty (60) days after the date of the Port Manager's receipt of a written complaint. Penalties shall be assessed by servicing a written Notice of Assessment upon the party thereby charged, either through personal delivery or registered or certified U.S. mail, within ten (10) days of the date of such Notice of Assessment. Each Notice shall state the amount of the penalty assessed, grounds therefor and shall inform the assessee of his or her right to appeal the assessment to the Port Manager and Board of Directors and, thereafter, to challenge the validity or amount of the assessment pursuant to the Administrative Adjudication Law. In addition, a copy of each written complaint upon which the assessment is based shall be attached to, and incorporated by reference in, the Notice of Assessment.

1.9 Complaints and Appeals: All complaints and appeals relating to any violation of these Rules and Regulations, or of any order of a Port Authority official or the Harbor Master in relation to the granting, revocation or denial of any permit, shall be made in writing and addressed to the Port Manager.

- 1.10 Procedure in Contested Cases:** All complaints and appeals authorized by these Rules and Regulations shall be adjudicated pursuant to the Administrative Adjudication Law, Title 5, Section 9100 et seq., Guam Code Annotated.
- 1.11 Notice:** Where notice to a permittee, vessel owner, charterer, agent or any other party is required by these Rules and Regulations, such notice will be effected in *one* of the following manners:
- a. Posting the notice in a conspicuous place aboard the permittee's vessel or at the assigned berth;
 - b. Mailing the notice to the person by certified mail, return receipt requested, at the person's last known address, provided that service by mail is deemed received and completed five (5) days after the date of mailing; or
 - c. personal service; provided that in an emergency, where life and property is endangered or if a vessel may interfere with other vessels, construction or maintenance of berthing facilities, or with the free and proper navigation of a waterway unless immediate action is taken, remedial action may be taken by the Harbor Master without prior notice.

2.0 DEFINITIONS

- 2.1 **Agent:** Representative of a vessel's owner or charterer who is authorized to transact business for that vessel.
- 2.2 **Alpha Hotel (Pilot Station):** The designated approach to Apra Harbor for all vessels prior to entering Apra Harbor. Exact pilot station range: 13 degrees latitudes, 26 minutes, 52 seconds, North, 144 degrees Longitude, 35 minutes, 15 seconds, East, Range: 083 Degrees, 2 Nautical miles West of Orote Point.
- 2.3 **Berth:** A vessel which is moored or made fast to a quay, wharf, dolphin or other structure is said to occupy a berth.
- 2.4 **Breakwater:** The Glass Breakwater at the entrance to the Harbor, Apra Harbor.
- 2.5 **Bunkering:** The loading of oil into bunker tanks for use as fuel, as defined in 33 CFR 158.120.
- 2.6 **Captain of the Port:** The Captain of the Port is the Commanding Officer of the United States Coast Guard in Guam.
- 2.7 **Container Berth:** Any berth at a Port Authority dock or pier designated by the Port Manager for preferential or exclusive use by vessels loading or discharging shipping containers.
- 2.8 **Container Cargo:** Any and all cargo carried and contained in a shipping container.
- 2.9 **Department:** The Port Authority of Guam (Port Authority).
- 2.10 **Dockage:** The charge assessed against a vessel when:

- a. Berthed at or made fast to a quay, wharf, dolphin or other structure;
- b. Occupying an outside berth;
- c. Not tied up to or lying alongside of a quay or wharf but is using such by means of boats, rafts, lighters, or other means.

2.11 Expected Time of Arrival (ETA): Mandatory advance notification, and timely notice of a change in such times or dates, provided to the Harbor Master by the masters, owners, charterers or agents of any commercial vessel arriving at or departing from the Port of Guam.

2.12 Fairway: Within 114m on either side of a line beginning at latitude 13 degrees 26'47"N, longitude 144 degrees 35'07"E; then to latitude 13 degrees 27'14.1"N, longitude 144 degrees 30'14.4"E; then to latitude 13 degrees 26'35.2"N, longitude 144 degrees 39'46.4"E; then to latitude 13 degrees 26'30.8"N, longitude 144 degrees 39'44.4"E. Vessels may not anchor in the fairway.

2.13 First Class Pilot: A person who holds a valid license or endorsement issued by the United States Coast Guard for the waters in which they are operating.

2.14 Flammable Liquid: Any liquid which gives off flammable vapors (as determined by the Tagliabue Open Cup Tester, as used to test burning oils) at or below a temperature of 80 degrees Fahrenheit.

2.15 Guam Waters: All United States waters contiguous to the island of Guam, exclusive of federally restricted water.

2.16 Harbor: All waters within Apra Harbor extending to the Glass Breakwater.

2.17 Harbor Master: The designated representative of the Port Authority and its General Manager, who is delegated full authority to administer these Rules and Regulations, in

coordination with the Port Authority Safety, Fire and Security Departments. The Harbor Master is authorized to issue orders to ensure the safe and efficient operation of vessels within Apra Harbor and all Guam waters within his jurisdiction. Also refers to any person acting with the authority of the Harbor Master.

- 2.19 **Harbor Pilot:** A person who holds a pilot license issued by the Government of Guam for the waters in which they are operating.
- 2.20 **Outside Berth:** A vessel which moors or makes fast to another vessel which is occupying a berth is said to occupy an outside berth.
- 2.21 **Port Facilities:** All channels, waterways, basins, seawalls, docks, piers, land areas, utilities, warehouses, cargo handling machinery and equipment, tugboats, barges, fire boats and other works, properties, structures and other facilities necessary for the development or operation of the Port of Guam and recreational boating facilities of Guam (12 GCA S10101[c]).
- 2.22 **Port Manager:** The General Manager of the Port Authority, and any person acting with the authority of the General Manager.
- 2.23 **Port of Guam:** Those port facilities in and around Apra Harbor owned or controlled by the Port Authority of Guam.
- 2.24 **Shipping Container:** A cargo carrying unit or device designed to be transported directly and mechanically between vessels and other forms of transportation, so as to eliminate intermediate dockside re-handling and/or storage of cargo. In addition, such container shall have minimum dimensions of eight (8) feet in width and ten (10) feet in length. Sea Vans, (also called van-packs) of the type commonly used by companies or firms to ship household goods or personal effects, are excluded from the definition of a shipping container so described herein.

- 2.25 **Tanker:** A self-propelled cargo vessel specially designed and equipped with tanks for the transportation of oil, gasoline, molasses or other liquids, fluids and free flowing materials and which is actually transporting therein fuel oil, diesel oil, lubricating oil, gasoline, jet fuels, benzene, kerosene, naphtha or other flammable petroleum or other liquid, fluid or gas products.
- 2.26 **Tankerline Vessel:** A cargo ship, primarily designed to carry ordinary freight but equipped with additional bunkers or compartments in which it is actually transporting fuel oil, diesel oil, lubricating oil, gasoline, jet fuels, benzene, kerosene, naphtha, or other flammable petroleum products or like products in excess of its own requirements as cargo.
- 2.27 **Typhoon Conditions:** Under these Rules and Regulations, typhoon conditions shall be determined by the Captain of the Port.
- 2.28 **Typhoon Condition 4:** Conditions normal.
- 2.29 **Typhoon Condition 3:** Typhoon winds of 64 knots (77 miles per hour) or more are anticipated within 48 hours.
- 2.30 **Typhoon Condition 2:** Typhoon winds of 64 knots (77 miles per hour) or more are anticipated within 24 hours.
- 2.31 **Typhoon Condition 1:** Typhoon winds of 64 knots (77 miles per hour) or more are anticipated within 12 hours.
- 2.32 **Vessel:** Power boats, ships, tugs, sailing vessels, barges, scows, lighters, ferry boats, and all other watercraft, except public vessels of the United States.

2.33 **Vessel Master:** The designated person responsible for the safe navigation and operation of a vessel.

2.34 **Wharfage:** The charge assessed against all cargo:

- a. Passing or conveyed over, onto or under any quay or wharf; or
- b. Passing or conveyed to or from a vessel when such vessel is:
 - i. made fast to a quay or wharf, or
 - ii. moored in any slip, channel, basin or canal; or
 - iii. made fast to another vessel which is made fast to a quay, wharf, or moored in any slip, channel, basin or canal (wharfage is solely the charge on cargo for the use of the quay, wharf, slip, channel, basin or canal and does not include charges for any other activity or service).

3.0 RESPONSIBLE OFFICIALS

3.1 **Harbor Master:** The Harbor Master is the designated representative of the Port Authority of Guam, and its General Manager, and as such is delegated full authority to administer these Rules

and Regulations. In addition, the Harbor Master may issue orders and establish procedures necessary for the safe and efficient use and operation of all ports, harbors and marinas within the Port Authority's jurisdiction. Any authority herein given to the Harbor Master may be delegated by the Harbor Master to the Assistant Harbor Master.

3.2 **Port Manager:** The Port Manager is the General Manager of the Port Authority of Guam, and is responsible for the overall administration of the Port Authority, from cargo handling and equipment maintenance to personnel management.

3.3 **Captain of the Port:** As stated in 33 C.F.R. 1.01-30, the Captain of the Port, or delegated representatives, enforce within a particular area, port safety and security and

marine environmental protection regulations, including, without limitation, regulations for the protection and security of vessels, harbors, and waterfront facilities; anchorages; security zones; safety zones; regulated navigation areas; deepwater ports; water pollution; and ports and waterways safety.

- 3.4 **Dock Master:** The Dock Master is the duly authorized representative of the Harbor Master whose duties are to berth vessels at berths so designated by the Harbor Master or other authorities and to advise vessel masters and crews of these Rules and Regulations.
- 3.5 **Vessel Master:** The Vessel Master is the designated person in charge of a vessel. The Vessel Master shall obey and carry into effect any orders given by the Harbor Master or Dock Master in relation to the plans and manner of bringing vessels to anchorage, entering or leaving a harbor, or coming alongside of, or leaving any quay or wharf, and shall not move or allow his vessel to be moved in, out, or within a harbor, or anchorage without the permission of the Harbor Master or Dock Master.
- 3.6 **The Vessel Master's Duties:** The safe navigation of a vessel, including piloting, is the paramount duty of the Vessel Master, and the presence of a Harbor Pilot on the bridge shall in no way relieve the Vessel Master of his duties. The Vessel Master remains at all times in full command of the vessel. He shall continue to navigate and shall take bearings and soundings and check compass courses, check radar, and take all actions necessary to safeguard the vessel under his command. In that regard, it shall be the duty of the vessel and her Vessel Master:
- a. To immediately inform the Pilot of all reports by lookouts;
 - b. On radar equipped vessels, to have the radar functioning and monitored as needed so that the Vessel Master and Harbor Pilot can be informed of observed targets;
 - c. To arrange for and provide adequate tug assistance, if required by these Rules and Regulations and to arrange for and have available adequate vessels lines to assist in tying up the tug or tugs;

- d. To remain on the bridge at all times and to accompany the Harbor Pilot in respective duties on and about the bridge;
- e. To provide and supervise competent vessel personnel;
- f. To understand and acknowledge that the Harbor Pilot is employed primarily to provide knowledge of the Harbor, and that the Harbor Pilot is acting solely in an advisory capacity, and not in a command capacity, and that the Harbor Pilot has no authority independent of the Vessel Master;
- g. To have at all times an adequate ship's anchor properly prepared and ready to drop;
- h. To provide officers conversant with the English language; and if they do not understand *English*, then request that the Harbor Pilot give orders by hand signals;
- i. It is the duty of the vessel owners, masters, operators, charterers, or agents to inform the Harbor Pilot, either before or immediately after the Harbor Pilot boards the vessel, of any vessel peculiarities, including but not limited to, the following:
 - i. Any defects or deficiencies in the vessel, her personnel, engines or tackle;
 - ii. Any vessel peculiarities concerning steering, stopping, handling, speed and maneuvering and the propensity-of the vessel to steer; and
 - iii. Any other information, whether or not herein enumerated, that might assist the Harbor Pilot in the pilotage of the vessel.

3.7 Agents: The Agents, and their designated representatives, when requested by the Harbor Master, shall give and afford the Harbor Master all possible aid in the performance of any of his duties in relation to the vessels they represent.

3.7 Pilotage Services: All pilotage services shall be offered and rendered, and shall be requested and accepted by the vessel, on the express understanding that such pilotage services are provided or performed solely in the Harbor Pilot's capacity as a servant of the vessel and of her owners, masters, operators, charterers or agents, and not otherwise.

3.8 Berthing of Vessels: The berthing of vessels at Port Authority quays or wharves shall be at the direction of the Harbor Master.

- 3.9 Vessel Master Shall Assist the Harbor Master:** The Vessel Master, and the crew thereof, when requested by the Harbor Master, shall give and afford the Harbor Master all possible aid in the performance of any of his duties in relation to such vessel.
- 3.10 If No Person Aboard a Vessel:** If by reason of there being no person aboard a vessel with proper authority, or if by reason of an insufficient number of persons aboard such vessel, or if the Vessel Master and/or crew of a vessel refuses to aid the Harbor Master in moving, pumping, mooring or un-mooring such vessel when so directed by the Harbor Master, the Harbor Master is empowered to move, pump, moor or un-moor, place or remove such vessel. To this end, the Harbor Master may, if necessary, hire such assistance, equipment and tackle and/or purchase and put aboard such quantity of ballast as to him seems requisite all at the expense of the, owners, charterers or agents of such vessel. All costs shall be paid to the Port Authority before permission for departure is given. The Port Authority shall in no way be liable for any damage or loss occurring to any vessel in consequence of such proceedings.
- 3.11 No Person to Cut or Cast Off Lines:** No person without the consent of the Harbor Master shall cut or cast off any mooring lines, rope or tackle made fast or attached to any vessel, quay, wharf, mooring, buoy or other place when the same has been fastened or attached by the Harbor Master or by order of the Harbor Master.
- 3.12 Typhoon Evasion Plan:**
- a. **Typhoon Condition 3:** Vessels under 200 feet in length, and not normally home-ported in Guam, will depart from the Harbor if directed by the Harbor Master or designated representative. All disabled vessels must obtain permission from the Captain of the Port and the Harbor Master to remain in Port at a designated mooring. The intent of this provision is to require such vessels to depart from the Harbor while able to do so before conditions worsen, unless such vessels can be

adequately secured during the typhoon. The Harbor Master's order to depart for sea shall be final and not subject to appeal.

- b. **Typhoon Condition 2:** All vessels will depart for sea when directed by the Harbor Master or a designated representative except those disabled vessels authorized by the Captain of the Port or the Harbor Master. The Port shall be closed when so ordered by the Captain of the Port.

4.0 USE OF WATERWAYS AND HARBOR FACILITIES

- 4.1 **Port Authority Rules and Regulations Shall Govern:** The use of any waterway or facility under the jurisdiction of Port Authority by any vessel shall constitute the consent and evidences the agreement on the part of the vessel's owners, charterers and lessees to comply with, and be governed by, all terms and conditions of these Harbor Rules and Regulations, to pay all charges specified in the Port Authority Tariff Schedule, and to discharge all fines assessed against the vessel.
- 4.2 **Preference for Use of Wharves F-5 and F-6:** Preference in the use of wharfs F-5 and F-6 shall be given to vessels loading or unloading shipping containers.
- 4.3 **Testing of Engines at the Dock:** The engines of any vessel moored at any quay, wharf, dolphins, or other structure shall not be tested except by permission of the Harbor Master. This shall not apply to routine pre-departure warming up of engines.
- 4.4 **Speed of Engines During Dock Trials:** The speed of engines being tested as referred to in the preceding paragraph shall not exceed the speed of such engines when operated under a dead slow bell.

- 4.5 **Responsibility for Any Damage Done During Dock Trials:** Any vessel testing her engines as previously referred to will be held responsible for any damage to quays, wharves or other vessels or property as a result of such testing of her engines.
- 4.6 **No Vessel to Blow Tubes in Port:** No vessel shall blow tubes or emit unnecessary smoke or polluting vapors of any kind at any time while in port.
- 4.7 **No Garbage to Be Dumped:**
- a. No garbage, rubbish or trash shall be dumped on the quays or wharves of the Port Authority, or into the waters of any harbor, marina or other boating facility. Pollution of any kind is prohibited, and penalties as provided by law will be imposed. Pollution of any kind shall be reported immediately to the Harbor Master. The United States Coast Guard shall be immediately notified of any discharge of oil or plastic into Guam Waters.
 - b. **Regulated Garbage:** No hazardous materials may be disposed of in garbage receptacles. All food or food contaminated garbage must be deposited in trash receptacles provided and marked "Regulated Garbage Only". All other garbage may be disposed of in general garbage receptacles. All vessels requiring regulated receptacles must submit a request to their agents (33 C.F.R. 158.410).
 - c. The United States Coast Guard and the Guam Environmental Protection Agency shall be immediately notified of any discharge of garbage into Guam Waters.
- 4.8 **No Dumping of Raw Sewage.**
- a. No vessel, whether commercial or private pleasure craft, shall deposit raw sewage within the ports, harbors, bays, rivers, lagoons or other Guam waters, except as may be permitted by federal or local regulations. Violators of these regulations will be reported to the appropriate authorities. Penalties for any such violation will be assessed as provided by applicable law or regulation.
 - b. The Port Manager and the Harbor Master shall have the authority under these Rules and Regulations to inspect any vessel or craft to ensure that proper

standards of health and sanitation are being maintained. Should improper conditions be found to exist, the appropriate health authorities will be notified to take whatever actions are deemed necessary.

5.0 VESSEL MOVEMENTS

- 5.1 **Control of Vessel Movements in the Harbor:** All vessels within the Harbor over fifty (50) feet in length shall advise the Marine Traffic Controller (Channel 13, VHF.FM) of all intended moves into, within, or out of the Harbor, giving the destination and departure time. Such vessels will operate under the direction of the Marine Traffic Controller pursuant to instructions issued by the Harbor Master or an authorized representative.
- 5.2 **Control of Vessel Entry and Discharges:** All vessels entering Guam Waters for the purpose of unloading or transferring passengers or cargo in Guam shall be cleared for such purpose at the Port of Guam. No passengers, crew, cargo or any other property aboard vessels entering Guam may be off-loaded onto any wharf, pier, quay, dock or other facility, or transferred to another vessel, except as directed by the Harbor Master or the Captain of the Port (5 GCA S73115).
- 5.3 **Port Manager and Harbor Master to Have Access to Vessels:** The Port Manager, Harbor Master, and/or such other person as may be designated, shall be permitted to enter upon and inspect any vessel to ascertain the kind and quantity of cargo thereon, and upon any rented or leased premises of the Port Authority of Guam to inspect such premises, as the interests of the Port Authority may require.
- 5.4 **Having Anchor Ready to Let Go:** All commercial vessels entering or leaving a port, harbor or marina will have an anchor clear and in readiness to let go if required.

5.5 May Not Make Fast or Secure Except to Proper Bitts, Cleats, Etc. No person shall make fast any rope or mooring line to any wharf or part thereof, except to mooring piles, bitts, or cleats provided for that purpose.

5.6 Requirement to Have a Safe Gangway and Display Light: All vessels other than barges and vessels under 300 gross tons moored alongside of a wharf shall:

- a. At all times have a safe and proper gangway to the wharf; and
- b. Between the hours of sunset and sunrise display a light other than a navigation or anchor light that is visible from the harbor or fairway

5.7 Notification of Expected Time of Arrival (ETA), etc. The masters, owners, charterers or agents of any commercial vessel arriving at or departing from the Port of Guam shall notify the Harbor Master as soon as practicable of the vessel's:

- a. date and hour of expected arrival;
- b. departure date and time;
- c. draft;
- d. length over-all;
- e. gross tonnage; and
- f. vessel flag.

In the event of a change in such times or dates, the Harbor Master shall be notified immediately.

5.8 May Not Bring Logs, Rafts, Etc., Alongside the Quay: No person or persons shall cause any vessel, raft, log or other floating object to come alongside of, to be moored to, or near, any quay, wharf or pier in any manner that may cause damage to such quay, wharf or pier.

5.9 Removal of Vessel, Rafts, Etc., From Alongside Which May Do Damage: The Harbor Master shall remove to some suitable place any vessel, raft, log or other floating object which may cause damage to or interfere with the use of any quay or wharf. The

owner thereof, if known, shall be notified forthwith in writing of such removal; but if the owner is not known, due notice of such removal shall be given by posting a notice in a conspicuous public place near such vessel. If within ten days after the date of giving or posting such notice no claim is made for the property, the Harbor Master may sell or otherwise dispose of such vessel, log, raft, or other floating object and apply the proceeds of such sale to defray the expenses of the Port Authority and credit the remainder, if any, to the owner. The Port Authority of Guam shall not be responsible for any loss or damage to such vessel, log, raft, or other floating object.

5.10 Damage to Quays, Wharves, Wharf Structures, Utilities and Cargo Handling and Storage Areas: The vessel masters, owners, charterers, and agents requesting a berth, cargo space allocation, or use of harbor facilities incident to the receiving, discharging, loading and removal of cargo will be responsible:

- a. For all damage caused to Port Authority property by himself, his employees, or any agent, subcontractor or materials handling firm under contract to them doing the discharging, loading, repairing or bunkering of a vessel; and
- b. For providing necessary protection to harbor facilities to protect them from damage in excess of normal wear and tear.
- c. **Repairs to Port Authority Property:** Any person responsible for damage to Port Authority property shall make repairs in accordance with Port Authority specifications. If the repairs are completed improperly or if the responsible party does not undertake the repairs within a reasonable time, the Port Authority will act to repair the damage and will bill the responsible party for the following:
 - i. Direct labor charges and cost of materials, plus an overhead charge of 25 percent if the repairs are made by Port Authority employees; or
 - ii. The contractor's charges plus an administrative charge of 25 percent if the repairs are made by a contractor hired by the Port Authority.

5.11 Maximum Speed of Vessels:

- a. All vessels over fifty (50) feet in length shall proceed at a rate of speed (except in case of emergency) commensurate with safe navigation and slow enough so as not to cause damage to other vessels and/or property.
- b. Vessels under fifty (50) feet when within three hundred (300) feet of any wharf, pier or quay, or within the Piti Channel, shall not exceed ten (10) nautical miles per hour, and when within fifty (50) feet of any wharf, pier or quay, a no wake speed must be maintained.
- c. Nothing herein shall preclude the Harbor Master from setting different rates of speed to meet special conditions. Otherwise, except as provided in the above subsections, the "Inland Rules – Rules of the Road" shall govern the operations of all vessels in the Harbor.

5.12 Priorities and Scheduling of Vessel Movements and Berth Assignments in Apra Harbor:

- a. Priorities for vessel movements, other than for typhoons and unless otherwise authorized by the Harbor Master, shall be as follows:
 - i. Government vessels when responding to emergencies;
 - ii. Vessels stopping to discharge sick or injured person(s);
 - iii. Passenger vessels;
 - iv. Inbound vessels scheduled to load or discharge cargo upon arrival:
 - (1) Cargo vessels;
 - (2) Tug and tow;
 - (3) Tankers.
 - v. Shift cargo vessels when required for further cargo handling;
 - vi. Outbound vessels with inter-island cargo;
 - vii. Incoming vessels arriving for repairs or bunkers;
 - viii. All others.
- b. Priorities for vessel movements in the event of a typhoon warning, unless otherwise authorized by the Harbor Master, shall be:
 - i. Government vessels;

- ii. Tankers;
 - iii. Vessels with explosive cargo;
 - iv. Passenger vessels;
 - v. Freighters;
 - vi. Others.
- c. **Scheduling Procedures:** Agents shall submit the following to the Harbor Master:
- i. Copies of passenger vessel schedules as far in advance as possible;
 - ii. At the earliest possible time, any ship scheduled for Port Authority. This shall constitute a tentative booking;
 - iii. Prior to 11:00 A.M., the week before a vessel's arrival, or as soon thereafter possible, submit a preliminary Expected Time of Arrival (ETA) to the Harbor Master.
 - iv. Prior to 11:00 A.M., the day before arrival, a final ETA shall be submitted to the Harbor Master. A schedule shall then be prepared by Harbor Master. The schedule shall be based on the priorities listed in sub-paragraph a. above and on the final ETA, and shall be published by 2:00 P.M. each day. All changes thereafter must be reported to the Control Tower operator. Berthing assignments for changes in schedules will be made on a first-come-first-served basis, and shall not interfere with established Harbor Master schedules.
 - v. Prior to 11:00 A.M., daily, submit to the Harbor Master known departures and shifts for the following day. All changes thereafter are to be submitted direct to the Marine Traffic Controller on duty. Changes in schedules will be based on the priorities in sub-paragraph a. above, a first-come-first-served basis, and shall not interfere with established Harbor Master schedules.
 - vi. Vessels arriving and/or departing at the same hour will be handled in accordance with the priority described in sub-paragraph a. above. Within any category, the vessel that was assigned a confirmed booking first will be

permitted to move first unless the vessel is late or operating conditions in the harbor dictate otherwise.

vii. Agents are requested to advise the Harbor Master at the earliest possible time when vessels scheduled to call Guam change their ETA, or to provide at least 24 hours notice of cancellation of their ETA or itineraries.

d. Other requirements:

- i. Applications for a berth assignment shall include information as to any peculiar requirements (i.e., camels needed for side-port bunkering, whether one side has to be alongside pier for repairs or other special reasons, etc.). Also, indicate any unusual physical features that might affect piloting or mooring, such as engine or steering gear problems.
- ii. Vessels using side-ports for bunkering, storage, passenger debarkation, or other reasons, should have side-ports closed when approaching the berth, in order to avoid damage to the pier or to the side-port.
- iii. Except for those vessels entering to load petroleum products or for special repairs requiring minimum draft, all vessels will be ballasted so as to reduce freeboard to a reasonable degree, and to provide positive stability for the class vessel. Ballasting and de-ballasting shall be accomplished seaward of ALPHA Hotel.
- iv. Agents shall arrange for proper and adequate *linemen on time* for all vessel arrivals, shifts and departures.
- v. **Pilots and Tugs:** Agents shall make all arrangements for the employment of pilots and adequate tug assistance.
- vi. It is the duty of the vessel's agent to keep Customs and Immigration officials advised as to the docking time of vessels being handled by them. It is not a responsibility of the Harbor Master to arrange for such officials to board, inspect and clear vessels.
- vii. All changes in a vessel's arrival time, shifting time or sailing time must be made at least two (2) hours in advance of the previously booked time.

- 5.13 Vessels Entering and Exiting the Outer Harbor:** The following regulations apply to all vessels entering and exiting the outer portions of the Harbor:
- a. Except for vessels not more than 100 feet in length, tow boats or tugs without tows, no vessel may pass another vessel within five hundred feet (500') of the Outer Harbor entrance.
 - b. Vessels over 100 gross tons shall: (a) steady on the entrance range at least two (2) miles west of the entrance when approaching the Harbor, and shall (b) steady on the range when departing the Outer Harbor.
 - c. No vessel may leave the Outer Harbor until any inbound vessel over 100 feet in length has cleared the Outer Harbor Entrance.
- 5.14 Use of Line Handlers:** All commercial vessels using Port Authority wharves, piers, or other dock facilities must use shore provided line handlers for reasons of safety. Dock Masters and other personnel from the Harbor Master's office are not to be used in lieu of such line handlers.
- 5.15 Anchoring in Fairways:** No vessel shall anchor in any fairway so as to obstruct vessel movements or the approach to any wharf (ref. 33 C.F.A. Part 166).
- 5.16 Authority to Establish Anchorages:** The Harbor Master is authorized to designate areas within the Harbor under the jurisdiction of the Port Authority for anchorage and to issue anchorage permits, provided such designations are in conformity with all federal and territorial laws and regulations.
- 5.17 Launching and Landing of Helicopters and Aircraft:** The launching and landing of helicopters or other manned aircraft from a vessel moored or alongside another vessel, or within five hundred feet (500') of any Port Authority owned or controlled pier, wharf, quay, bulkhead, landing, dolphin or other mooring facility is strictly prohibited. No

helicopter or aircraft may take off or land at the designated landing zone ("LZ") at Golf Pier without prior permission of the Harbor Master.

- 5.18 Communications:** Operational communications within the HMO are conducted by Marine VHF Radio (Channel 13) and commercial telephone (671.447.8697). The Captain of the Port may also be contacted by Marine VHF Radio (Channel 13) or telephone (671.339.2001, ext. 112 or 113). All users of Marine VHF Radio communications equipment are encouraged to voice traffic, maintain circuit discipline, and to broadcast on "low power" whenever possible.

6.0 PILOTAGE

- 6.1 Pilot Service:** Pilot services are available on a 24 hour basis for Apra Harbor. Pilots are required to board inbound vessels and leave outbound vessels at Alpha Hotel (Pilot Station) two nautical miles West of Udal (formerly Orote) Point to insure that the vessel is properly aligned on the entrance range. However, depending on weather conditions, pilot boarding at a different location may be permitted by the Harbor Master for safety reasons on a case by case basis.
- 6.2 Pilots and Vessel Masters to Observe All Regulations:** Pilots and Vessel Masters will observe all harbor, quarantine, immigration and other Federal regulations.
- 6.3 Pilotage Waters:** Pilotage waters as established under this Chapter shall consist of all waters of the Territory within two nautical miles of Udal (formerly Orote) Point and all waters within Apra harbor, exclusive of federally restricted waters.
- 6.4 Mandatory Use of Harbor Pilot:** Every vessel involved in trade or commerce, other than an exempt vessel, entering, departing from or traversing the waters of the Harbor shall employ a Harbor Pilot. However, a vessel declared by the Harbor Master or the

Captain of the Port to be in immediate danger of destruction or which poses an immediate hazard to public safety by its presence in any harbor may be moved without a Harbor Pilot when a Harbor Pilot is not immediately available.

6.5 Exempt Vessels: A Harbor Pilot is not required for:

- a. Vessels not involved in trade or commerce;
- b. Enrolled and other vessels that are exempt under the laws of the United States of America, provided they are under the direction and control of a federally licensed pilot;
- c. Vessels home-ported in Guam and involved in the tourism trade, such as dinner-cruise boats, diving and fishing charter boats, submersibles and rental craft.

6.6 Exempt During Daylight Hours Only: The following vessels, not otherwise exempt as provided for in Section 6.5 above, may enter, exit and be operated in the Harbor without the assistance of a Harbor Pilot, but only during daylight hours:

- a. Vessels under 500 gross tons provided that the Vessel Master has previously entered and exited the Harbor while operating a vessel with the assistance of a licensed pilot and provided that the Vessel Master or mate on board the vessel is able to communicate in the English language with the Harbor Master and the Captain of the Port and provided that adequate two-way communications between the vessel and the Harbor Master and the Captain of the Port are continuously maintained, either directly or through the vessel's agent, while the vessel is underway in Guam Waters;
- b. Tugs and tows home-ported in Guam or the Commonwealth of the Northern Mariana Islands provided that the master of the tug and tow has previously entered and exited the Harbor while operating a vessel with the assistance of a licensed pilot.

6.7 Exception for Safe Navigation: This section is not intended to negate or limit the Harbor Master's responsibility for the safe navigation of all vessels within Guam waters. Accordingly, the Harbor Master may recommend or require the assistance of a pilot for any vessel exempt by this provision if the Harbor Master determines such is necessary to ensure safety in any port or other waters of the territory.

6.8 Priority for Pilot Services:

- a. A Harbor Pilot will offer his services in the order of priority established by the Harbor Master, unless another vessel is observed approaching a dangerous position in which case effort will be made to offer to board and assist the latter vessel.
- b. All Harbor Pilots will aid and assist, by every means within their power, any vessel in distress.

6.9 Pilots to Bring Vessels to Berths Assigned by the Harbor Master: A pilot bringing a vessel inward, unless required to anchor for quarantine, will bring the vessel to such wharf or berth as the Harbor Master may direct.

6.10 Pilots for Small Craft: Every person operating small craft in a Guam harbor, marina or other boating facility, or through channels or entrances leaving or approaching same, shall do so at their own risk. Harbor pilots can be made available for small craft, if desired, as set forth in the sections above.

6.11 Pilot Licensing Rules and Regulations: The following rules and regulations adopted pursuant to the Compulsory Pilotage Act of 1999, Public Law 25-09.

- a. **License Required:** No person shall pilot, or offer to pilot, a vessel not exempt pursuant to these rules unless he has first obtained a pilot's license from the Port Authority.
- b. **License Qualifications:** The Port Manager shall issue a license upon (1) application and payment of the application fee, (2) issuance or presentation of a

United States Coast Guard license duly endorsed for the piloting of vessels into, out of and within the Harbor.

- c. **License Term and Automatic Renewal:** Each license shall be effective for a period of five (5) years and shall be automatically renewed upon application therefor, upon payment of the application fee, as long as the applicant possesses the minimum qualifications established by these rules and remains in active service as a pilot in the territory (refer v. below). However, nothing herein shall prevent the suspension, revocation or denial of a pilot's license for good cause, in accordance with the provisions of these rules or applicable law.
- d. **Pilot License Fees:** Each applicant shall pay a fee of \$100.00 for a pilot's license, or for the renewal thereof. Such fees shall be payable to the Port Authority.
- e. **Denial, Suspension or Revocation:** In addition to any other action authorized by law or these rules and regulations, the Port Manager may deny the issuance of a pilot's license to any applicant and may suspend or revoke the license of any pilot for cause, including but not limited to the following:
 - i. Violation of this Chapter or any rule or regulation of the Port Authority of Guam;
 - ii. Negligent pilotage;
 - iii. Habitual use or consumption of any substance rendering a harbor pilot unfit to be entrusted with the safe navigation of a vessel;
 - iv. Lack of ability to perform the duties of a harbor pilot;
 - v. Failure to remain engaged in regular or active service as a pilot in the territory (i.e., completing at least five (5) trips each quarter or three-month period);
 - vi. Procurement of a license through fraudulent misrepresentation or deceit;
 - vii. Violation of any law or regulation prohibiting unfair or deceptive acts or practices;
 - viii. Violation of any law or regulation intended to promote marine safety or protect navigable waters or the environment;

- ix. Failure to report a marine accident (i.e., any vessel grounding, collision, allision, oils or hazardous materials spill, or a failure of main engine, primary steering system, radar or echo depth sounder) in accordance with the rules and regulations of the Port Authority of Guam; or
 - x. Failure to maintain a current and valid federal pilots license or appropriate pilotage endorsement issued in accordance with Title 46, United States Code, Chapter 71.
- f. **Exhibition of License.** A Harbor Pilot, upon boarding a vessel, and whenever required by the Vessel Master thereof, shall exhibit his or her pilot's license or a photocopy thereof.
- g. **Piloting Without a License.** Unless the person holds a current Guam license to do so, no person shall pilot or offer to pilot a vessel not exempt by these rules. Nor shall any person on board a tug or tow boat tow, or agree to tow, a vessel or barge not exempt by these rules, unless the vessel shall have on board a pilot duly licensed pursuant to these rules.
- h. **Rates of Pilotage.** The Port Authority of Guam shall not provide or warrant the availability of pilot services, which shall be provided solely by the private sector. The terms of any contract for pilotage, including rates or pilot fees, shall be negotiated and agreed upon by the parties thereto, except as specifically provided herein.
- i. **Complaints.** Any person having a complaint against a Pilot shall make such complaint as soon as possible in writing to the Harbor Master, who shall immediately investigate the complaint and report thereon to the Port Manager. All complaints shall be processed and adjudicated in the manner provided in Sections 1.8 through 1.11 of these Rules and Regulations. A copy of each complaint shall also be immediately forwarded to the Captain of the Port.
- j. **Pilot License Review Board.** The Port Manager shall appoint a Pilot License Review Board, comprising the Harbor Master, who shall serve as its Chairperson, an Assistant Harbor Master, three licensed Harbor Pilots (not more than two employed by the same company), and two members representing the shipping

industry. Each member, except for the Harbor Master and the Assistant Harbor Master, shall serve for a term of two years or until replaced. The purpose of the Pilot License Review Board is to review and recommend appropriate disposition of complaints and other disciplinary action against a Harbor Pilot to the Port Manager and the Port Authority Board of Directors. No pilot's license shall be suspended or revoked, or any disciplinary action taken, unless such action has been reviewed by a majority of the members of the Pilot License Review Board, or thirty days have passed from submittal of the matter for such review. The Port Manager and the Port Authority Board of Directors shall consider the recommendations of the Pilot License Review Board prior to implementing disciplinary action.

7.0 TUG SERVICE

- 7.1 Availability of Tugs:** Tug escort services and assistance are available on a 24-hour basis for the Harbor. All arrangements shall be made by the vessel's agent sufficiently in advance to ensure that all vessels not exempt by these rules have adequate tug service.
- 7.2 Use of Tugs:** A tug boat (or tugs) shall be used by all commercial vessels, exceeding 250 feet in overall length entering, leaving, or operating within the Harbor, except research vessels and vessels up to 300 feet in overall length equipped with an operational bow thruster. A fishing vessel's use of a skiff boat in lieu of a tug boat is permitted provided there is constant communication between the skiff operator and the Vessel Master.
- 7.3 Safety Exception:** For reasons of safety, the Harbor Master may require any vessel to use the services of a tug or tugs.
- 7.4 Tow Capacity:** Tow escorts shall be of sufficient capacity to safely tow the vessel should the vessel become disabled.

- 7.5 **Length of Escort Service:** Whenever weather and sea conditions permit, all tug escorts shall commence at Alpha Hotel (Pilot Station) and continue until the escorted vessel is safely and completely anchored, moored or docked in accordance with the Harbor Master's orders.

8.0 SAFETY, CLEANLINESS AND ENVIRONMENTAL REGULATIONS

- 8.1 **Handling of Explosive and Other Dangerous Articles:** Handling of shipments of explosive and other dangerous articles, as defined by the Titles 33 and 49, Code of Federal Regulations, will be permitted upon full compliance by the shipper, carrier, and terminal operator with all applicable laws and regulations, including Research and Special Programs Administration and United States Coast Guard regulations governing the packaging, marking, labeling, handling and transporting of such articles.
- 8.2 **Fire on Board Ship:** In the event of fire occurring on board any vessel in port, except vessels underway, such vessels will sound five (5) prolonged blasts of the whistle or siren as an alarm indicating fire on board or at the dock to which the vessel is moored. Such signal will be repeated at intervals to attract attention and is not a substitute for, but shall be used in addition to, other means of reporting a fire. The words "prolonged blast" shall mean a blast from four (4) to six (6) seconds in duration. This signal shall not be used for any other purpose.
- 8.3 **Explosives:** Except for Department of Defense vessels, no vessel containing more than 25 short tons of Class 1.1 and 1.2 (old classes A and B explosive) as specified in 49

C.F.R. 176.100 and certain 1.5 and 5.1 materials as specified in 49 C.F.R. 176.415 may enter the Harbor except as authorized in writing by the Captain of the Port.

- a. No facility may discharge from, load on, handle, or re-stow on board class 1.1 and 1.2 and certain 1.5 and 5.1 materials without notifying the Harbor Master and obtaining a permit from the Captain of the Port.
- b. All vessels entering or departing Apra Harbor with less than 25 tons of explosives on board may conduct cargo operations as follows:
 - i. Cargo stored within 40 feet of any explosive container shall not be disturbed or moved; and
 - ii. Cargo stored above and below of any explosive container shall not be disturbed or moved.

8.4 Handling, Loading and Unloading of Explosives: All handling and loading or unloading of explosives shall be done in a safe and careful manner, and in accordance with all Federal laws and regulations pertinent thereto.

8.5 Hauling of Explosives: All hauling of explosives away from or to the pier shall be done in a safe and careful manner and in accordance with applicable laws and regulations of the Guam Fire Department.

8.6 Storage of Hazardous Cargo: No Nitrate of Soda, Nitrate of Ammonia, Sulphur or other hazardous or toxic substance shall be stored or left upon any wharf for more than four (4) hours unless packed in sound and leak-proof containers. Such materials shall be under the continuous care of a competent watchman satisfactory to the Harbor Master until removed. The cost of such watchmen shall not be borne by the Port Authority.

8.7 Removal of Hazardous Materials: Indiscriminate sweeping of spilled hazardous material is an unsafe practice. The identity of spilled cargo shall be immediately determined. The Captain of the Port shall be notified of all hazardous material spills on board ship, in the water, or on the pier or facility. Except in an emergency situation, no

removal or cleanup efforts shall be undertaken without approval of the Captain of the Port.

- 8.8 Removal of Acid From Wharf:** Acids of a dangerous character such as sulfuric, muriatic and nitric acids shall be removed from the wharf immediately upon discharge from the vessel, and no such acid shall be put upon a wharf for shipment until the carrier is ready to receive it. Permission of the Harbor Master must be secured in the event it becomes necessary to handle such cargoes at times other than specified.
- 8.9 Hazardous and Flammable Substances in Leaky Containers:** No gasoline, distillate, kerosene, benzene, naphtha, turpentine, paints, oils or other flammable substance shall be delivered onto any wharf in leaky containers without authorization from the Coast Guard and necessary permits from Guam and U.S. Environmental Protection Agencies. All such substances unloaded from any vessel in a leaky container shall be removed immediately.
- 8.10 Combustible Materials Not to Be Flame Treated:** No combustible materials such as pitch, tar, resin or oil shall be flame treated on board any vessel without the permission of the Harbor Master.
- 8.11 Vessels Fumigated or Smoked at Dock:** No vessel shall be fumigated or smoked at any wharf without permission in writing from the Port Manager or Harbor Master and approval from local and federal authorities.
- 8.12 Fuel Burning Steam Generating Appliances:** All fuel burning steam generating appliances when used on any wharf under control of the Port or on any scow, pile driver or other vessel working alongside or near any wharf shall be equipped with spark arresters satisfactory to the Harbor Master. At the close of each day's work all ashes, cinders, shall be promptly removed and shall not be disposed of in, near or upon the waters of the Harbor.

- 8.13 Repair, Manufacturing, Construction Work or Maintenance Work:** No person shall make any repairs or do any kind of manufacturing, construction or maintenance work on any wharf without the permission of the Port Manager or Harbor Master.
- 8.14 No Smoking in Certain Areas:** Smoking is prohibited at all times within any freight shed, or upon any wharf apron, and during the time cargo is being loaded, unloaded or stored on any unshaded pier, except within areas designated by the Harbor Master and plainly marked "Smoking Area," and no person shall enter into, stand in or under, or pass through any such wharf or structure with a lighted pipe, cigar, cigarette, match, fire or any flame of whatever nature.
- 8.15 Use of Explosives:** The use of explosives is strictly prohibited on land, on any wharf, or in any shed or other structure, or in the waters in the immediate vicinity of the same, without the written approval of the Harbor Master and appropriate permits from local and federal agencies.
- 8.16 Loading and Unloading of Flammable Materials:** Loading or unloading of flammable liquids shall be in strict accordance with applicable federal and Guam laws and regulations (ref. 33 C.F.R., 126.15(0), Subpart L).
- 8.17 Welding and Burning Operations on Piers and Wharves and Aboard Vessels:**
- a. **Hot Work Permit:** Before any welding or burning operations can be done on wharf or waterfront facility, it is required that the party intending to do such work secure a permit from the Port Authority Safety Office and the Captain of the Port. All hot work operations on board ships will be conducted in accordance with 29 C.F.R. 1915 Subpart B.
 - b. **Inspections:** Before any welding, burning, spark-or flame-producing operations are undertaken aboard any ship, dock, wharf, or waterfront facility, all spaces subject to the accumulation of dangerous gases or gas producing materials, in or

on which hot work is to be performed, and such other~~s~~ spaces as may be required by the United States Coast Guard, or required under the provisions of National Fire Protection Association Standards, shall be inspected by a Marine Chemist or a licensed Industrial Hygienist. The Captain of the Port may also authorize, in writing, "Coast Guard Authorized persons" to conduct such inspections on a case by case basis. This authorization and certificate will be limited to the specific incident or specific vessel identified.

- i. Such spaces shall include, but shall not be limited to, oil and ballast tanks, cofferdams, void spaces, boiler and machinery spaces, pump rooms, compartments treated with combustible rust preventatives, including hollow rudders and skegs, paint lockers and shaft alleys.
- ii. On completion of inspection, a certificate shall be issued setting forth in writing the conditions found at the time of inspection and indicating by appropriate designations whether or not the contemplated repairs or alterations can be undertaken with safety.
- iii. One copy of the Marine Chemist or licensed Industrial Hygienist or Coast Guard-authorized person's Certificate shall accompany the application for a permit, and one copy shall be left aboard ship or waterfront facility, preferably posted in a conspicuous place near the gangway.
- iv. Hot work shall be performed in the locations and under the procedures designated in writing on the permit and Marine Certified Chemist's Certificate.
- v. Loading or moving of cargo or the movement of the ship from one location to another within the shipyard or installation for which a Marine Chemist or a licensed Industrial Hygienist Certificate has been issued is permissible without requiring an additional inspection and the issuance of a Marine Chemist or a licensed Industrial Hygienist Certificate when in the judgment of the Marine Chemist or licensed Industrial Hygienist or Coast Guard-authorized person such movement will not create a hazardous situation. However, the movement of ships from one

jurisdiction area to another shall require an additional inspection and the issuance of a new Marine Chemist or a licensed Industrial Hygienist Certificate before continuing hot work.

vi. All welding and burning operations shall be under the supervision and control of a competent foreman or supervisor who shall see that all regulations pertaining to welding or burning operations are complied with.

c. **Operations.** In all types of operations, fire prevention shall be the watchword, and all workmen should bear in mind that fire prevention is their individual responsibility. All combustible materials must be removed from the area in which the welding and burning operations are being conducted, or properly protected if removal is not feasible.

i. Welding or burning operations shall not be conducted around hatches or companionways, unless they are sealed with their own cover or door. In the event this is not possible, an asbestos blanket or other flameproof material may be substituted in their place. Such substitutions shall require the approval of the inspecting authority issuing the permit.

When welding or burning operations are being conducted in such locations that sparks could spatter or fly over the outside of the ship's hull, a protective shield composed of metal or other flameproof material shall be provided to prevent the sparks from igniting the wharf or dock, barges, or oil slicks on the water, or other combustible materials.

Water charged fire mains, with hoses and nozzles attached of sufficient length so that the water can reach the base of any fire which may occur, shall be on each deck of the ship where welding or burning operations are being conducted. A fire watch shall be provided in each space that is in direct contact with the surface where hot work is taking place.

When welding or burning operations are conducted on a wooden wharf, or a fire-resistant paved wharf with cracks or crevices, the entire surrounding area shall be drenched with water by means of a hose line and

kept wet during the entire operation to prevent sparks from igniting the flooring or timbers below.

- ii. No refueling of equipment with flammable petroleum products will be permitted on any pier or wharf without approval from the Port Authority Safety Office and the Harbor Master.
- iii. On waterfront facilities which are used for repair work, no gasoline or other flammable liquid shall be stored except as required for normal operations and then only when stored in approved containers and in quantities approved by the Port Authority Safety Office.
- iv. Petroleum based cleaning fluid which has been treated to satisfactorily reduce the flash point may be used for washing grease from machinery parts in an approved location safe for hot work operations. All paints or other flammable liquid materials shall be kept securely covered except when in actual use.
- v. Gasoline-powered generators or compressors shall not be operated on the vessel, but must be kept on the wharf. Said equipment shall be equipped with a spark arrester on the exhaust pipe, and the drip pan set in a position to protect the wharf in the event of any gasoline or oil being spilled. An attendant shall stand by at all times equipped with an approved fire extinguisher to extinguish any fires which may occur. At the conclusion of operations, said gasoline-powered equipment shall be removed from the wharf. Where insulated wire cables are in the path of traffic, they shall be protected from damage by crossovers, and where they lead into the ship they shall be protected from chafing damage by a protective-wrapped covering. Where electrical cables lead from one vessel to another, the same protective measures shall be used.
- vi. When acetylene or oxygen cylinders are used, the following precautions shall be followed at all times.

- (1) Compressed gas cylinders shall be used in a vertical position only, and shall be secured at all times to prevent falling. Cylinders, when in use, shall be kept on the pier at all times.
- (2) Do not drop cylinders; ruptured cylinders may explode. Do not use cylinders for rollers, anvils, or supports.
- (3) When cylinders are not in use, close valves and replace protective caps.
- (4) Cylinders shall not be handled by cranes, except when they are placed in specially constructed bottle racks or in a skip box. Under no circumstances shall gas cylinders be hoisted by a magnet, manila line, steel cable, chains, slings or nets.
- (5) Cylinders not in use shall be secured on a wheeled truck so they can be easily moved if a fire occurs in the immediate vicinity.
- (6) When permanently installed on a pier and exposed to the sun, cylinders shall be provided with adequate protection from the heat.
- (7) Valve and hose connections shall be kept tight to prevent leaks. Leaks shall be tested with soapy water and not with flame.
- (8) Cylinders shall be kept away from sparks, flame or heat.
- (9) Under no circumstances shall smoking be permitted in the vicinity of gas cylinders, whether or not burning/welding operations are in progress.
- (10) Acetylene hoses shall be tested frequently for leaks. If acetylene has been escaping in confined areas, the areas shall be properly ventilated and cleared of all gas, and the area tested and inspected by a competent person, before welding or burning operations are resumed.
- (11) No acetylene torch shall be left unattended while burning. When not being used the hose shall be coiled or looped in a workman-like manner and placed on a bracket at the cylinders, and the pressure in the hose relieved by closing off the valves on the cylinders and

opening the valves on the torch. Lines left unattended during meal times or other extended periods shall be either removed from compartments or disconnected at the cylinders.

(12) Oxygen cylinders shall be kept free from oil and grease at all times, because oxygen under pressure brought into contact with oil or oily substances oxidizes so rapidly that an explosion may occur.

(13) Oxygen shall not be used to blow out oil pipes, for paint spraying, or for pneumatic tools, as an explosion might occur.

(14) Compressed gas cylinders shall not be refilled on any wharf.

- d. **Notification of Other Agencies:** When the Harbor Master or the Port Authority Safety Officer issues a permit to do hot work, the appropriate federal and local agencies shall be notified of such action. When hot work is being done in the Harbor, the United States Coast Guard Marine Safety Officer on duty at the time and the Harbor Master shall be immediately notified.

8.18 Bunkering:

- a. At least four hours prior to bunkering vessels at any wharf or berth, the supplier shall first obtain permission from the Harbor Master.
- b. The United States Coast Guard Marine Safety Office must be notified at least four hours in advance for bunkering operations at anchorage for all vessels with a capacity greater than 250 barrels of oil (refer 33 C.F.R. 156).
- c. During bunkering operations in which bunkers are being taken through an open fuel intake or from a fuel tank truck, where a fire hazard may exist, cargo operations shall cease. This shall not apply when bunkers are taken from a pipeline connected by gasketed joints directly to the vessel piping system. However, the Harbor Master or Safety Officer may direct that operations be discontinued when an oil spill occurs (as from a broken hose or ruptured gasket) or if a potentially hazardous situation exists.
- d. No welding, burning, or other types of work that may create hazardous conditions shall be permitted while bunkering operations are in progress. This

time period shall commence from either (a) the tank truck arrives onto the wharf, or (b) when a hose is hooked up to the wharf's fuel line, or (c) the vessel's bunkering connection is opened. The time period shall cease when either (a) the tank truck is off the wharf, or (b) the wharf and vessel fuel connections have been secured.

- e. The mooring lines of the vessel shall be checked prior to the bunkering operation to ensure they are secure and to prevent any surging.
- f. Prior to any fuel line hook-up being made or a fuel hose stretched to a vessel, a grounding line shall be connected from the vessel to the wharf. This grounding line should be connected first to the vessel and then connected to the shore ground.
- g. Except when bunkers are taken from a pipeline connecting through the gasketed joints directly to the vessels piping system, all engines, motors, fans and other devices liable to produce sparks located closer than fifty (50) feet shall cease operation. On small craft, such as fishing boats and pleasure boats, all ports, windows, doors and hatches shall be closed.
- h. Only intrinsically safe flash lights may be used during bunkering operations.
- i. Drip pans will be placed under all points where fuel could leak onto either the wharf, decks, or into the harbor, and scuppers shall be blocked to prevent fuel from escaping into the Harbor.
- j. There shall be no smoking, lighting of matches, lighters or use of other devices producing sparks or flame or the throwing of switches (other than certified non-sparking types) on all vessels bunkered at berths.
- k. No unauthorized persons shall be allowed either on board the vessel, or in the immediate vicinity of the bunkering point.
- l. When a hose and nozzle are used during bunkering operations, the nozzle must be kept in continuous contact with the vessel's fuel intake opening to eliminate the possibility of static sparks.
- m. For all vessels with a capacity greater than 250 barrels of oil, a person in charge with the proper endorsement required by 33 C.F.R. 155.700 shall be stationed in

the vessel by the fuel intake at all times while the discharge operation is in progress. For all transfers to U.S. or foreign vessels, in accordance with 33 C.F.R. Part 156.120, the vessel and facility person in charge shall both be stationed at the site of the transfer operation while the operation is in progress. Such person should have a good command of the English language in order to communicate with shore personnel. Should there be no one in the crew capable of this, an interpreter must be present during the entire fueling operation.

- n. Upon completion of the taking of bunkers, all shore connections must be closed and the vessel's filling lines closed prior to disconnection of the grounding lines. The grounding lines shall be disconnected from the shore first, then from the vessel.
- o. Any spilled oil or fuel shall be cleaned up immediately. The vessel should be ventilated thoroughly before the opening of doors, hatches, portholes, etc., or the operating of any spark producing mechanism, to dispel any fumes for at least five minutes before resuming normal operations. On small craft such as fishing boats and pleasure craft, particular attention should be paid to ensuring that fumes have not accumulated in the bilges, hatches, or other below deck spaces.
- p. The Harbor Master shall be notified upon completion of all bunkering operations.
- q. Compliance is also required with all other federal and territorial laws and regulations pertaining to bunkering, not specifically mentioned above, such as the flying of a red ("Baker") flag.

9.0 USE OF WHARVES

- 9.1 **Cleanliness of Wharves:** All wharves, sheds and open areas which may be used for the handling of cargo shall be kept in a clean and sanitary condition and free from all obstructions.
- 9.2 **Charges for Cleaning Wharves Assessed Against Vessel:** In cases where the Port Authority takes over the cleaning of wharves, sheds or open areas, a charge shall be

computed as the total cost of labor and/or materials used and shall be assessed against the vessel which is responsible for the cleaning.

9.3 Identification of Owner of Mobile Equipment: The owner and lessor, if under lease, of all mobile equipment used on any property under the control of the Port Authority in connection with the handling of cargo or shipping containers, such as forklifts, cranes, tractors, straddle trucks, chassis or other equipment, shall be clearly identified on such equipment.

9.4 Admittance of Vehicles into Port Area: No vehicles shall be admitted upon any wharf or in any other area used for the storage of cargo except for the purpose of delivering or picking up freight, unless the owner thereof has been granted a permit by the Port Manager or the Harbor Master.

9.5 Speed of Vehicles in Port Area:

- a. Trucks and other vehicles entering upon a wharf for the purpose of delivering or picking up freight shall not be driven at a speed greater than ten (10) miles per hour. Mobile equipment used in the handling of freight during cargo loading and unloading operations shall be under the direct supervision of a stevedoring foreman and shall not be operated at a speed greater than ten (10) miles per hour.
- b. Trucks and other vehicles operating in Container Yards shall not be driven at a speed greater than fifteen (15) miles per hour.
- c. Vehicles on roadways adjacent to wharves and pier sheds shall not be driven at a speed greater than fifteen (15) miles per hour, unless otherwise indicated by appropriate traffic signs.

9.6 Motor Vehicle to be Equipped with Fire Extinguisher: All vehicles entering upon Port Authority facilities shall have a fire extinguisher. Vehicles used to convey the sick or the infirm, ambulances and vehicles of hospitals and/or the health or police departments, and other

vehicles used for official government business, may enter upon wharves without a fire extinguisher.

9.7 Paragraphs 9.5 and 9.6 Not to Apply to Vehicle Being Shipped: The provisions of Section 9.5 and 9.6 shall not apply to vehicles left on a wharf for the purpose of shipping the same on any vessel, nor shall they apply to any vehicle which has been discharged as freight.

9.8 Fowl, Animals or Livestock on Wharves: No fowl, animal or livestock of any kind shall be allowed to remain on any wharf for a period longer than six (6) hours without being fed and watered. After any fowl, animal or livestock shall have been unloaded on a wharf, it shall be removed from the same within twenty-four (24) hours. No shipment of fowl, animal or livestock subject to quarantine shall be unloaded from a vessel unless cleared by the Department of Agriculture, or unless arrangements have been made for acceptance for quarantine. All such fowl, animals and livestock requiring quarantine shall be removed from the wharf within eighteen (18) hours. All expenses incurred in the care and maintenance of fowl, animals or livestock while on a wharf shall be paid by the consignees thereof, and the Port Authority shall have a lien upon same until all expenses are paid.

9.9 All Vehicles Subject to Orders of the Harbor Master: All vehicles operating on any wharf shall be subject to the orders of the Harbor Master.

9.10 Placement of Goods and Equipment: Any person handling goods or using equipment on a wharf, or bringing goods thereon for shipment, shall place, store or stack such goods or equipment in such a way as not to be an impediment to approaches to the wharf, nor an obstacle to the removal of other goods, nor cause damage to the wharf. No goods shall be so placed as to restrict or prevent the use of mooring bitts, cleats, bollards or other devices used for mooring purposes. No goods shall be so placed as to restrict or prevent the use of tracks, water connections, fire hydrants, gutters, oil and bunker connections, or drains.

9.11 Closing of Wharves: The Harbor Master may close any wharf, or any portion thereof, or restrict the use of the same whenever in his opinion such closure or restriction is necessary to ensure the safety, health or welfare of the public. No person shall enter whenever in his opinion it is advisable to do so. No person shall enter upon a wharf so closed or restricted without the permission of the Harbor Master.

9.12 Suspension of Port Operations:

- a. The Port Manager or Harbor Master may order the suspension of any loading or unloading operation, bunkering repairs or other operations when in his opinion such suspension is necessary to ensure the safety, health or welfare of the public.
- b. At the request of any other agency or department, the Port Manager or Harbor Master may order the suspension of operations upon a wharf to ensure the safety, health or welfare of the public, or for law enforcement purposes.

9.13 Handling of Goods on Wharf - Responsibility for Damaged Freight Due to Weather Conditions: It is the responsibility of shipping companies, owners and consignors to ensure that freight is adequately protected from weather damage while same is stored on wharves. This responsibility will include provision of adequate covering, closing of all openings such as outside doors, windows and inspection openings, and the placing of freight on pallets or dunnage so that it will not be damaged by moisture from the shad floors. The Port Authority shall not be responsible or liable for damaged freight due to inadequate weather protection.

9.14 No Landing of Items That Can Cause Damage: No goods or articles of any description which are likely to cause damage to property or injury to persons shall be landed, discharged or unloaded upon any wharf without the prior permission of the Harbor Master.

- 9.15 Rubbish, Ashes or Refuse on Wharves:** No person shall place or leave any ashes or rubbish on any wharf except in areas designated for that purpose, without the permission of the Harbor Master.
- 9.16 Objectionable Materials on Wharves:** No objectionable materials such as decaying or putrefying vegetable matter, manure, or bedding straw shall be left on any wharf. All such material shall be removed immediately.
- 9.17 Dead Animals on Wharves:** No dead animal shall be left on any wharf, in the waters or on the shores of any harbor or upon any reef adjacent to any such harbor without the permission of the Harbor Master.
- 9.18 Dead Animals in Water:** No dead animal shall be moved through the waters of any harbor without the consent to the Harbor Master.
- 9.19 Goods Unfit to Remain on Wharves:** Any freight which, in the opinion of the Harbor Master, is unfit to remain upon any wharf, or which may be harmful to other freight on such wharf shall, if necessary, be removed by the Harbor Master at the expense of the owner or consignee.
- 9.20 Rubbish, Swill, Garbage Placed in Harbor:** No rubbish, swill, garbage or refuse shall be thrown, washed overboard or placed in the Harbor or on any wharf.
- 9.21 Ballast, Etc., Landed on Shores of Harbor:** No ballast, rock, stone, slate, slag, gravel, sand, earth, cinders, rubbish, filth, garbage, or other noxious substance shall be deposited on any of the shores, property or facilities under the control of the Port Authority, unless approved by the Port Manager.
- 9.22 Ballast, Etc., Procedures For Landing:** When any ballast, rock, stone, sand, fertilizer, grain, or other loose material is being handled between a vessel and any wharf or

vice-versa, or between two vessels within any harbor, a canvas chute or other means satisfactory to the Harbor Master shall be used to prevent any part of the material being handled from falling into the Harbor or onto the wharf.

10.0 PRIVATE ACTIVITIES

10.1 Private Use of Port Authority Property and Facilities:

- a. **General Statement:** No use of any property or facility owned or controlled by the Port Authority for commercial or personal purposes is permitted, except as authorized by these Rules and Regulations.
- b. **Business Activities:** No person shall engage in any business or commercial activity (including commercial sub-leases) on Port Authority-owned or controlled property without the prior written approval of the Port Manager.

10.2 Non-Commercial Activities:

- a. The following activities are prohibited on or within any Port Authority property or facility if conducted by a person to or with passers-by in a continuous or repetitive manner:
 - i. The sale or distribution of any merchandise including, but not limited to, jewelry, food stuffs, candles, flowers, badges and clothing.
 - ii. The sale of flyers, brochures, pamphlets, books or any other printed or written material.
 - iii. The solicitation and receipt of funds.
 - iii. The sale of any service.
 - iv. The sale of any raffle ticket or entry in a game of chance.
 - vi. The conduct of a game of chance.
- b. The continuous or repetitive distribution of flyers, brochures, pamphlets, books or any other printed or written material is prohibited unless conducted pursuant to the following provisions of this rule:

- i. Each person distributing literature or any other material on behalf of himself or herself, another individual or an organization, must hold a valid leafleting permit and conduct the activity in conformity with applicable laws, regulations and terms of the permit. Each leafleting permit shall describe the material to be distributed and location where it may be distributed.
- ii. Each time a person enters Port Authority property or facilities to distribute literature pursuant to this rule, he or she must report his arrival to the Port Manager and sign in prior to distributing literature. If a leafleting permit has not been issued by the Port Manager pursuant to Section b(i) above, the person will not be permitted to distribute literature pursuant to this rule. Each time a person leaves the Port Authority property or facility, after distributing literature, he or she must report such departure to the Port Manager and sign out upon cessation of distribution of literature.
- iii. Permits for distribution of literature will be issued on a first-come, first-served basis. Each person distributing literature on behalf of an organization must display an identification badge that states the name of the organization or person represented. The badge will be worn on the upper left breast of the outermost garment and be clearly visible.
- iv. The distribution of literature pursuant to this rule is permitted only at the locations designated in Section c(vi) below. Access to these locations will be granted on a first-come, first-served basis each day upon request. No more than three representatives of a single organization or person are permitted to distribute literature at any one location at any one time.
- v. A table may be used in connection with the distribution of literature pursuant to this rule in the following manner only: Only one table, which may not exceed 52 inches in length and 30 inches in width, may be used at each location.
- v. The distribution of literature shall be conducted only between the hours of 10:00 A.M. to 5:00 P.M.

- vii. The Port Manager may prohibit the distribution of literature otherwise permitted by this rule in the event of a tropical storm or typhoon, vessel accident, vessel delay, power failure, transportation strike or other event or condition under which the distribution of literature in such space creates a danger to persons or property, interferes with the orderly formation and progression of waiting lines, or interferes with any of the following: pedestrian and/or vehicular travel; the issuance of tickets or boarding passes or equivalent documents for sea or ground transportation; luggage or cargo movement or handling; the entry to and exit from vessels or vehicles; security procedures; government inspection procedures; cleaning, maintenance, repair or construction operations.
- c. The sale of any written or printed matter and the solicitation of funds from the general public for non-commercial purposes (herein called "solicitation activities") are prohibited unless conducted outside the Administration Building and in full compliance with the following provisions of this rule:
 - i. Each person conducting a solicitation activity must hold a valid solicitation permit issued by the Port Manager and conduct the activity in conformity with applicable laws, regulations and the terms of the permit. Each solicitation permit shall describe the activity authorized and the area in which it may be conducted.
 - ii. Each person who seeks to engage in a solicitation activity on Port Authority property may do so only in connection with religious expression or as a representative of a non-commercial organization. Each such person shall immediately be given a single permit upon submission of an application, signed by the applicant, containing the following:
 - (1) The applicant's name, address and telephone number.
 - (2) The name, address and telephone number of the organization that the applicant represents, and a letter or other documentation that the applicant has authority to represent that organization

(submission of this document is not required of an individual who is not representing an organization).

- (3) The name and title of the person in the organization who will have supervision of and responsibility for the activity at the Port Authority, if applicable.
- (4) Statement that the sale of printed matter and/or the solicitation of funds is for a non-commercial purpose.
- (5) One of the following:
 - (a) A statement signed by the applicant that the applicant represents, and will be soliciting funds or selling written or printed matter for the sole benefit of, a religion or religious group.
 - (b) A statement signed by the applicant that the applicant represents, and will be soliciting funds or selling written or printed matter for the sole benefit of a political organization, a function of which is to influence the nomination, election, or appointment of one or more individuals to federal, state, or local public office; to influence federal, state, or local legislation; or to advocate issues or causes to the public.
 - (c) A statement signed by the applicant that the applicant's organization has received an official Internal Revenue Service (IRS) ruling or letter of determination stating that the organization or its parent organization qualifies for tax-exempt status under 26 U.S.C. 501(c)(3), (c)(4), or (c)(5).
 - (d) A statement signed by the applicant that the applicant's organization has applied to the IRS for a determination of tax-exempt status under 26 U.S.C. 501(c)(3), (c)(4), (c)(5), and that the IRS has not yet issued a final administrative ruling or determination on such status.

- (e) A statement signed by the applicant that the applicant's organization has on file with the Department of Revenue and Taxation, Government of Guam, a current registration statement in accordance with Section 651 et seq. of the Civil Code of Guam.
- iii. Failure to submit all the information required by paragraph (b) of this section shall result in denial of a solicitation permit. Upon submission of a completed and signed application, a solicitation permit shall be issued unless all available permits have been issued to prior applicants.
- iv. Applications for solicitation permits must be submitted to the Port Manager. Permits will be granted on a first-come, first-served basis. The areas will be assigned on a first-come, first-choice basis. The permits are not transferable except among individuals who have completed and submitted applications for the same permit.
- v. Each solicitation permit shall authorize the holder to conduct a fund-raising activity for a period of up to forty-eight (48) hours. Permits shall not be extended or renewed. After the expiration of the permit a new solicitation permit may be issued to the former permit holder upon request or submission of a new application respectively. In such a case, applicants may be permitted to incorporate by reference any required documentation filed with a previous application.
- vi. Each permit shall specify the area in which the solicitation activity may be conducted by the permit holder. Permits shall be issued for the following areas up to the maximum number indicated:
 - (1) The sidewalk in front of the main entrance and main exit of the Administration Building - - five (5) permits;
 - (2) The sidewalk in front of the entrance and exit to the Port Terminal - - five (5) permits.

- (3) The sidewalk in front of the Board of Directors Office - - five (5) permits.
- vi. Nothing in this part shall be construed as impairing or expanding any right which a Port Authority lessee may otherwise have, by virtue of its leasehold interest in Port Authority property or facilities, premises, to regulate access to those areas under its exclusive control.
- vii.

10.3 Prohibited Conduct Relating to Non-Commercial Activity: No person may conduct any non-commercial activity within or outside a Port Authority building or facility:

- a. Without a permit or with a permit that has expired.
- b. With a permit issued upon an intentionally false application.
- c. With a permit outside the area designated on the permit.
- d. Within ten (10) feet of the following:
 - i. A security screening point,
 - ii. Premises leased for the exclusive use of a concessionaire,
 - iii. Restroom facilities,
 - iv. A stair, escalator or elevator,
 - v. A doorway or entrance way,
 - vi. A motor vehicle with embarking or disembarking passengers,
 - vii. A public service information counter,
 - viii. A food court or the area adjoining a food or beverage facility, and
 - ix. Persons waiting in line at any of the above listed areas.
- e. If a person representing the non-commercial organization is selling written or printed matter or soliciting funds without wearing or displaying, in a conspicuous manner, a solicitation permit and the name of the organization that the person represents.
- f. By intentionally touching or making physical contact with another person, or the vehicle by which the person is occupying, unless that other person has consented to such physical contact.
- g. By use of a loudspeaker, sound or voice amplifying apparatus.

- h. By setting up a table, counter or stand without the written permission of the Port Manager.
- i. By leaving any item unattended.
- j. By attaching any placard, sign, circular or other written material on any wall, post, counter, billboard or other surface.
- k. By performing any ceremony, speech, song, carrying of any sign or placard, or other such activity which constitutes a danger to persons or property, or which interferes with any of the following: the orderly formation and progression of waiting lines; passenger, pedestrian and/or vehicular travel; the issuance of tickets or boarding passes or equivalent documents for sea or ground transportation; luggage or cargo movement or handling; the entry to and exit from vehicles; security procedures; government inspection procedures; cleaning, maintenance, repair or construction operations.

11.00 HARBOR ACTIVITIES

11.1 Hazardous Floating Objects in Harbor: Whenever the disposal, salvage or transportation of a derelict craft, vessel or other object of any size, type or description, might, if sunk, lost or abandoned in the harbors, channels, shores or waters of Guam become hazardous to navigation, to dredging or to other operations of the Guam or federal governments, or the public, the written permission of the Harbor Master shall be obtained before taking such action.

11.2 Sinking in Navigable or Off-Shore Waters: No vessel or other object of any size, type or description shall be let lose, sunk, dropped or abandoned in or on the navigable waters or shores of Guam. In the event of such occurrence, the Harbor Master shall be immediately notified and the owner shall take such action as is necessary for removal of the object. If the owner fails to take action to remove the object, the Port Authority will take such actions as are necessary for such removal and will charge all costs incurred to the owner. The Harbor Master may require the posting of a bond to assure such payment.

11.3 Connecting Up of Vessels to Water Supply System:

- a. No person shall connect a vessel's water supply system, siphon or other water-operated device, equipment or mechanism to a potable water supply system, or operate any water-operated device, equipment or mechanism connected to the water supply system, unless an approved back flow prevention device has been installed at the faucet or other point of connection. An "approved backflow prevention device" means a backflow prevention device that meets the requirements contained in Standard 1001, American Society of Sanitary Engineers or the Uniform Plumbing Code adopted by the International Association of Plumbing and Mechanical Officials (IAPMO).
- b. No connection may be made from any vessel's water supply system to a dockside water supply system without the written permission of the Harbor Master.
- c. No potable water may be supplied from a dockside water supply outlet without the use of a water meter.

11.4 Dumping of Sinkable Materials: All dumping at sea of sinkable objects or material is prohibited, unless permitted by law. Letting loose of floating objects in the Harbor is strictly prohibited.

11.5 Dredging and Removal of Sand, Gravel, Rock, Etc. No dredging shall be performed, or any sand, gravel, coral, rock or topsoil removed from any areas under the control of the Port Authority, without the written permission of the Port Manager.

11.6 Construction of Structures: No buildings or structures of any nature whatsoever shall be erected or constructed on Port Authority property, nor shall existing structures be modified, without obtaining the written permission of the Port Manager and the approval of any other governmental agency as required by law. In general, approval will be dependent on an agreement to return the property to its original state when vacating the property or premises if requested to do so by the Port Authority.

12.0 SMALL CRAFT

12.1 Small Craft Moorings:

- a. The Harbor Master may, consistent with applicable federal and Guam laws and regulations, establish and allocate berths and moorings for small craft in Apra Harbor.
- b. Priorities for berthing and mooring in Apra Harbor shall be as follows:
 - i. Commercial fishing boats, or boats hauling commercial fish cargoes;
 - ii. Charter boats;
 - iii. Other commercial craft; and
 - iv. Recreational craft.
- c. Berths shall be made available only when not required for large, commercial ocean-going vessels, or government owned/operated vessels, or for vessel for which prior long-term commitments have been made.
- d. Exceptions to the priorities in Section b. above may be made if the Port Manager or Harbor Master believes that it is in the best interests of public safety, health and welfare.
- e. No vessel shall make fast to, moor, dock, anchor at or lay alongside any Port Authority controlled pier, wharf, quay, bulkhead, landing, dolphin, mooring or other moored vessel or anchored vessel in areas under the control of the Port Authority without the prior authorization of the Harbor Master.
- f. Any such vessel may be removed by direction from the Harbor Master.
- g. Any costs incurred by the Port Authority in removing such vessels shall be for the account of the owner, master, agent, or operator of the vessel.
- h. Separate rules governing small craft use of, and navigation within, marinas, boat basins and other recreational boating facilities (i.e., Hagatna Boat Basin and Agat Small Boat Harbor) may be promulgated and should be consulted by the owners and operators of small craft in those facilities. In the event of any conflict between these Rules and Regulations and such separate rules, the latter shall govern the use of, and navigation within, those facilities.

- i. **Small Craft Mooring Permit/Request:** Any interested person, corporation, or other legal body may apply for a mooring permit by completing in full the application provided by the Harbor Master. In the case of a legal body, association, or other organized body, evidence of corporate existence and authority to submit that application shall be provided to the Harbor Master.
- j. **Issuance of a Mooring Permit:** A small craft mooring permit shall be issued on a first-come, first-served basis for a period not to exceed seventy-two (72) hours when (a) a completed application has been submitted, (b) an agreement has been executed, (c) an adequate berthing or mooring facility becomes available, (d) the vessel is in an operating condition and capable of operating beyond the confines of the harbor or other mooring facility on a regular basis, and (e) all required fees and charges have been paid.
- k. **Cancellation of Mooring Permits:** Mooring permits may be canceled for any of the following reasons: (a) the vessel berthed or moored is being used for illegal purposes, (b) the vessel constitutes a hazard to the Port Authority and/or vessels in the vicinity, (c) the permit has expired, (d) the vessel has been abandoned, (e) the vessel's owner, operator, charterer or lessee has been convicted of a crime relating to such vessel, or (f) violation of any federal or Guam laws or regulations by such vessel.

12.2 Waterskiing, Operation of Personal Watercraft, Parasailing and Windsurfing

- a. **Waterskiing and parasailing:** These activities shall be prohibited in the outer harbor. Vessels and individuals engaged in these activities must operate in accordance with the Navigation Rules and any other special regulations put out by the U.S. Department of Transportation, United States Coast Guard. The activities of waterskiing and parasailing are prohibited within one hundred feet (100') of the following areas: (a) any berth, wharf, fairway, pier or quay; (b) any bridge, (c) any beach or other area set aside for swimming or bathing; and (d) any other areas designated by the Port Manager to protect public safety, avoid hazards to navigation, or prevent interference with Port Authority operations.

- b. **Personal Watercraft and Windsurfers:** Personal watercraft and windsurfers must be operated in accordance with the Navigation Rules and any other special regulations put out by the U.S. Department of Transportation)United States Coast Guard. This is especially so with regard to rights-of-way and safe speed when operating in close proximity to any berths, wharfs, fairways, piers, or quays. Personal watercraft and windsurfers shall: (a) not be operated closer than 50 feet to wharfs. If forced to do so, they shall leave the area as soon as reasonably possible; (b) be allowed to operated within an area designated for swimming or bathing only to egress to/from the shoreline to waters outside of the designated swimming area. They shall do so at a “no wake” speed and avoid people utilizing the swimming area; (c) be allowed to operated within an area designated as a channel or fairway if using such fairway as a traffic lane or when crossing. In accordance with the Navigation Rules, such operation should not impede any vessel that is utilizing the fairway, especially a vessel restricted in its ability to maneuver.

12.3 Fishing Prohibited in Certain Areas: Catching of fish in the Harbor by any means or method is prohibited in the following areas: (a) all approaches to berths, wharves, channels, fairways, quays; (b) all berths where operations are in progress, such as the commercial piers and wharves, or where dredging is taking place; (c) off any bridges; (d) at or near any beaches specifically set aside for swimming or bathing; (e) any other areas designated by order of the Port Manager to protect public safety, avoid hazards to navigation, or prevent interference with Port Authority operations.

12.4 No Consumption of Alcoholic Beverages: Alcohol consumption in any facility under the jurisdiction of the Port Authority is strictly prohibited.

- a. Persons under the influence of alcohol or controlled substances are prohibited from entering into any wharves, piers, sheds, roads, or open areas owned or controlled by the Port Authority.

- b. The Port Authority specifically and categorically disclaims any liability for any accident incurred by persons under the influence of alcohol or controlled substances.
- c. Any damage to property and facilities owned or under the control of the Port Authority caused by persons under the influence of alcohol or controlled substances shall be repaired or replaced by the Port Authority, and will charge all costs incurred to the person responsible.

12.5 Safe Navigation in Apra Harbor: Recreational vessels operating in the Harbor shall adhere to the following Standards of Care to ensure safe operation:

- a. Ensure vessel is safe before getting underway.
- b. Ensure vessel is seaworthy.
- c. Keep flares and distress calling equipment readily accessible.
- d. Be extra careful in bad weather.
- e. Avoid passing large vessels close aboard. Recreational vessel operators need to be aware that large vessels are severely limited in their ability to stop or alter course; that they are limited in their ability to sight small vessels due to blind spots that may extend more than one-half mile ahead; and that they cannot easily avoid a collision with a smaller recreational vessel.
- f. Pass tugs with caution.
- g. Know where the traffic lanes, fairways and the regulated navigational areas are located.
- h. Know how and when to monitor VHF channels 13, 14 and 16.
- i. Know your vessel's position at all times.
- j. Be an informed mariner:
 - Learn the maritime "Rules of the Road"
 - Read Coast Guard notices to mariners
 - Monitor the weather and weather forecasts
 - Listen to channel 16 for Coast Guard broadcasts.

1 Changes to these rules and regulations shall be made in accordance with
2 §10105 of Title 21, Guam Code Annotated and the Administrative Adjudication
3 Law.

4 **Section 3. Severability.** *If* any provision of this Law or its application
5 to any person or circumstance is found to be invalid or contrary to law, such
6 invalidity shall *not* affect other provisions or applications of this Law which can
7 be given effect without the invalid provisions or application, and to this end the
8 provisions of this Law are severable.

**ATTACHMENT 1
HARBOR RULES AND REGULATIONS
FOR THE PORT AUTHORITY OF GUAM**

**AMENDED HARBOR RULES AND REGULATIONS
OF THE
PORT AUTHORITY OF GUAM**

**Adopted by the Board of Directors of the
Port Authority of Guam on
June 9, 2000**

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- f. Motorized Recreational Water Craft Regulations (Public Law 23-89);
- g. Coral and Fish Conservation (5 G.C.A. §63127);
- h. Fishing Regulations/Restrictions (5 G.C.A. §§63101-63609);
- I. Harvesting of Coral (5 G.C.A. §63602);
- j. Environmental Protection (40 C.F.R. 1-1517; 10 G.C.A. §47101);
- k. Compulsory Pilotage Act of 1999 (Public Law 25-09)
- l. All other applicable U.S. and Guam laws and regulations.

1.4 Non-Discrimination Policy: All services performed and activities conducted on property owned or controlled by the Port Authority of Guam shall be performed and conducted without discrimination or segregation against any individual regardless of their race, creed, gender or national origin. Violation of this policy shall constitute good cause for termination of any lease, concession, right, privilege, license, permit or other interest held by the violator.

1.5 Interpretation: If any provision of these Rules and Regulations is inconsistent with any law of the United States or any rule or standard established pursuant thereto, such provision shall be construed, superseded, or governed thereby. Nothing contained in these rules shall be construed to limit the powers of any United States or Government of Guam agency or officer.

1.6 Severability: The provision of these Rules and Regulations are declared to be severable and if any portion, or the application thereof, to any person or property is held invalid for any reason, the validity of the remainder of these rules, or the application of such remainder to other persons or property, shall not be affected.

1.7 Civil Penalties: Any person who violates any of these Rules and Regulations, or who fails to perform any duty imposed thereby, or to comply with any lawful order of the Port Manager, Harbor Master or Dock Master, while in the discharge of that officer's duties, shall be guilty of a misdemeanor. In addition, such person shall be subject to a

civil penalty not to exceed the sum of five thousand dollars (\$5,000) for each violation. The amount of each penalty shall be determined by the Harbor Master, in his discretion, subject to appeals first to the Port Manager and then to Board of Directors. The amount of each penalty shall be determined based on the gravity of the infraction, number of prior violations, extent of injury to persons or damage to property, and the violator's cooperation and willingness to comply with these Rules and Regulations. In addition to any penalty assessed, or as a condition to the suspension of any penalty, the offender may be deprived of the privilege of using any port, harbor or marina facility for a period of not more than two (2) years. All penalties shall be paid to the Port Authority.

1.8 Procedure for Assessment of Penalties: All complaints shall be in writing, signed and submitted to the Port Manager within thirty (30) days of the date the conduct complained of was first discovered. All complaints must be investigated within sixty (60) days. No penalty may be assessed more than sixty (60) days after the date of the Port Manager's receipt of a written complaint. Penalties shall be assessed by servicing a written Notice of Assessment upon the party thereby charged, either through personal delivery or registered or certified U.S. mail, within ten (10) days of the date of such Notice of Assessment. Each Notice shall state the amount of the penalty assessed, grounds therefor and shall inform the assessee of his or her right to appeal the assessment to the Port Manager and Board of Directors and, thereafter, to challenge the validity or amount of the assessment pursuant to the Administrative Adjudication Law. In addition, a copy of each written complaint upon which the assessment is based shall be attached to, and incorporated by reference in, the Notice of Assessment.

1.9 Complaints and Appeals: All complaints and appeals relating to any violation of these Rules and Regulations, or of any order of a Port Authority official or the Harbor Master in relation to the granting, revocation or denial of any permit, shall be made in writing and addressed to the Port Manager.

1.10 Procedure in Contested Cases: All complaints and appeals authorized by these Rules and Regulations shall be adjudicated pursuant to the Administrative Adjudication Law, Title 5, Section 9100 et seq., Guam Code Annotated.

1.11 Notice: Where notice to a permittee, vessel owner, charterer, agent or any other party is required by these Rules and Regulations, such notice will be effected in one of the following manners:

- a. Posting the notice in a conspicuous place aboard the permittee's vessel or at the assigned berth;
- b. Mailing the notice to the person by certified mail, return receipt requested, at the person's last known address, provided that service by mail is deemed received and completed five (5) days after the date of mailing; or
- c. personal service; provided that in an emergency, where life and property is endangered or if a vessel may interfere with other vessels, construction or maintenance of berthing facilities, or with the free and proper navigation of a waterway unless immediate action is taken, remedial action may be taken by the Harbor Master without prior notice.

2.0 DEFINITIONS

- 2.1 **Agent:** Representative of a vessel's owner or charterer who is authorized to transact business for that vessel.
- 2.2 **Alpha Hotel (Pilot Station):** The designated approach to Apra Harbor for all vessels prior to entering Apra Harbor. Exact pilot station range: 13 degrees latitudes, 26 minutes, 52 seconds, North, 144 degrees Longitude, 35 minutes, 15 seconds, East, Range: 083 Degrees, 2 Nautical miles West of Orote Point.
- 2.3 **Berth:** A vessel which is moored or made fast to a quay, wharf, dolphin or other structure is said to occupy a berth.
- 2.4 **Breakwater:** The Glass Breakwater at the entrance to the Harbor, Apra Harbor.
- 2.5 **Bunkering:** The loading of oil into bunker tanks for use as fuel, as defined in 33 CFR 158.120.
- 2.6 **Captain of the Port:** The Captain of the Port is the Commanding Officer of the United States Coast Guard in Guam.
- 2.7 **Container Berth:** Any berth at a Port Authority dock or pier designated by the Port Manager for preferential or exclusive use by vessels loading or discharging shipping containers.
- 2.8 **Container Cargo:** Any and all cargo carried and contained in a shipping container.
- 2.9 **Department:** The Port Authority of Guam (Port Authority).
- 2.10 **Dockage:** The charge assessed against a vessel when:

- a. Berthed at or made fast to a quay, wharf, dolphin or other structure;
- b. Occupying an outside berth;
- c. Not tied up to or lying alongside of a quay or wharf but is using such by means of boats, rafts, lighters, or other means.

2.11 Expected Time of Arrival (ETA): Mandatory advance notification, and timely notice of a change in such times or dates, provided to the Harbor Master by the masters, owners, charterers or agents of any commercial vessel arriving at or departing from the Port of Guam.

2.12 Fairway: Within 114m on either side of a line beginning at latitude 13 degrees 26'47"N, longitude 144 degrees 35'07"E; then to latitude 13 degrees 27'14.1"N, longitude 144 degrees 30'14.4"E; then to latitude 13 degrees 26'35.2"N, longitude 144 degrees 39'46.4"E; then to latitude 13 degrees 26'30.8"N, longitude 144 degrees 39'44.4"E. Vessels may not anchor in the fairway.

2.13 First Class Pilot: A person who holds a valid license or endorsement issued by the United States Coast Guard for the waters in which they are operating.

2.14 Flammable Liquid: Any liquid which gives off flammable vapors (as determined by the Tagliabue Open Cup Tester, as used to test burning oils) at or below a temperature of 80 degrees Fahrenheit.

2.15 Guam Waters: All United States waters contiguous to the island of Guam, exclusive of federally restricted water.

2.16 Harbor: All waters within Apra Harbor extending to the Glass Breakwater.

2.17 Harbor Master: The designated representative of the Port Authority and its General Manager, who is delegated full authority to administer these Rules and Regulations, in

coordination with the Port Authority Safety, Fire and Security Departments. The Harbor Master is authorized to issue orders to ensure the safe and efficient operation of vessels within Apra Harbor and all Guam waters within his jurisdiction. Also refers to any person acting with the authority of the Harbor Master.

- 2.19 **Harbor Pilot:** A person who holds a pilot license issued by the Government of Guam for the waters in which they are operating.
- 2.20 **Outside Berth:** A vessel which moors or makes fast to another vessel which is occupying a berth is said to occupy an outside berth.
- 2.21 **Port Facilities:** All channels, waterways, basins, seawalls, docks, piers, land areas, utilities, warehouses, cargo handling machinery and equipment, tugboats, barges, fire boats and other works, properties, structures and other facilities necessary for the development or operation of the Port of Guam and recreational boating facilities of Guam (12 GCA S10101[c]).
- 2.22 **Port Manager:** The General Manager of the Port Authority, and any person acting with the authority of the General Manager.
- 2.23 **Port of Guam:** Those port facilities in and around Apra Harbor owned or controlled by the Port Authority of Guam.
- 2.24 **Shipping Container:** A cargo carrying unit or device designed to be transported directly and mechanically between vessels and other forms of transportation, so as to eliminate intermediate dockside re-handling and/or storage of cargo. In addition, such container shall have minimum dimensions of eight (8) feet in width and ten (10) feet in length. Sea Vans, (also called van-packs) of the type commonly used by companies or firms to ship household goods or personal effects, are excluded from the definition of a shipping container so described herein.

- 2.25 **Tanker:** A self-propelled cargo vessel specially designed and equipped with tanks for the transportation of oil, gasoline, molasses or other liquids, fluids and free flowing materials and which is actually transporting therein fuel oil, diesel oil, lubricating oil, gasoline, jet fuels, benzene, kerosene, naphtha or other flammable petroleum or other liquid, fluid or gas products.
- 2.26 **Tankerline Vessel:** A cargo ship, primarily designed to carry ordinary freight but equipped with additional bunkers or compartments in which it is actually transporting fuel oil, diesel oil, lubricating oil, gasoline, jet fuels, benzene, kerosene, naphtha, or other flammable petroleum products or like products in excess of its own requirements as cargo.
- 2.27 **Typhoon Conditions:** Under these Rules and Regulations, typhoon conditions shall be determined by the Captain of the Port.
- 2.28 **Typhoon Condition 4:** Conditions normal.
- 2.29 **Typhoon Condition 3:** Typhoon winds of 64 knots (77 miles per hour) or more are anticipated within 48 hours.
- 2.30 **Typhoon Condition 2:** Typhoon winds of 64 knots (77 miles per hour) or more are anticipated within 24 hours.
- 2.31 **Typhoon Condition 1:** Typhoon winds of 64 knots (77 miles per hour) or more are anticipated within 12 hours.
- 2.32 **Vessel:** Power boats, ships, tugs, sailing vessels, barges, scows, lighters, ferry boats, and all other watercraft, except public vessels of the United States.

- 2.33 **Vessel Master:** The designated person responsible for the safe navigation and operation of a vessel.
- 2.34 **Wharfage:** The charge assessed against all cargo:
- a. Passing or conveyed over, onto or under any quay or wharf; or
 - b. Passing or conveyed to or from a vessel when such vessel is:
 - i. made fast to a quay or wharf, or
 - ii. moored in any slip, channel, basin or canal; or
 - iii. made fast to another vessel which is made fast to a quay, wharf, or moored in any slip, channel, basin or canal (wharfage is solely the charge on cargo for the use of the quay, wharf, slip, channel, basin or canal and does not include charges for any other activity or service).

3.0 RESPONSIBLE OFFICIALS

- 3.1 **Harbor Master:** The Harbor Master is the designated representative of the Port Authority of Guam, and its General Manager, and as such is delegated full authority to administer these Rules and Regulations. In addition, the Harbor Master may issue orders and establish procedures necessary for the safe and efficient use and operation of all ports, harbors and marinas within the Port Authority's jurisdiction. Any authority herein given to the Harbor Master may be delegated by the Harbor Master to the Assistant Harbor Master.
- 3.2 **Port Manager:** The Port Manager is the General Manager of the Port Authority of Guam, and is responsible for the overall administration of the Port Authority, from cargo handling and equipment maintenance to personnel management.
- 3.3 **Captain of the Port:** As stated in 33 C.F.R. 1.01-30, the Captain of the Port, or delegated representatives, enforce within a particular area, port safety and security and

marine environmental protection regulations, including, without limitation, regulations for the protection and security of vessels, harbors, and waterfront facilities; anchorages; security zones; safety zones; regulated navigation areas; deepwater ports; water pollution; and ports and waterways safety.

- 3.4 **Dock Master:** The Dock Master is the duly authorized representative of the Harbor Master whose duties are to berth vessels at berths so designated by the Harbor Master or other authorities and to advise vessel masters and crews of these Rules and Regulations.
- 3.5 **Vessel Master:** The Vessel Master is the designated person in charge of a vessel. The Vessel Master shall obey and carry into effect any orders given by the Harbor Master or Dock Master in relation to the plans and manner of bringing vessels to anchorage, entering or leaving a harbor, or coming alongside of, or leaving any quay or wharf, and shall not move or allow his vessel to be moved in, out, or within a harbor, or anchorage without the permission of the Harbor Master or Dock Master.
- 3.6 **The Vessel Master's Duties:** The safe navigation of a vessel, including piloting, is the paramount duty of the Vessel Master, and the presence of a Harbor Pilot on the bridge shall in no way relieve the Vessel Master of his duties. The Vessel Master remains at all times in full command of the vessel. He shall continue to navigate and shall take bearings and soundings and check compass courses, check radar, and take all actions necessary to safeguard the vessel under his command. In that regard, it shall be the duty of the vessel and her Vessel Master:
- a. To immediately inform the Pilot of all reports by lookouts;
 - b. On radar equipped vessels, to have the radar functioning and monitored as needed so that the Vessel Master and Harbor Pilot can be informed of observed targets;
 - c. To arrange for and provide adequate tug assistance, if required by these Rules and Regulations and to arrange for and have available adequate vessels lines to assist in tying up the tug or tugs;

- d. To remain on the bridge at all times and to accompany the Harbor Pilot in respective duties on and about the bridge;
- e. To provide and supervise competent vessel personnel;
- f. To understand and acknowledge that the Harbor Pilot is employed primarily to provide knowledge of the Harbor, and that the Harbor Pilot is acting solely in an advisory capacity, and not in a command capacity, and that the Harbor Pilot has no authority independent of the Vessel Master;
- g. To have at all times an adequate ship's anchor properly prepared and ready to drop;
- h. To provide officers conversant with the English language; and if they do not understand English, then request that the Harbor Pilot give orders by hand signals;
- i. It is the duty of the vessel owners, masters, operators, charterers, or agents to inform the Harbor Pilot, either before or immediately after the Harbor Pilot boards the vessel, of any vessel peculiarities, including but not limited to, the following:
 - i. Any defects or deficiencies in the vessel, her personnel, engines or tackle;
 - ii. Any vessel peculiarities concerning steering, stopping, handling, speed and maneuvering and the propensity-of the vessel to steer; and
 - iii. Any other information, whether or not herein enumerated, that might assist the Harbor Pilot in the pilotage of the vessel.

3.7 Agents: The Agents, and their designated representatives, when requested by the Harbor Master, shall give and afford the Harbor Master all possible aid in the performance of any of his duties in relation to the vessels they represent.

3.7 Pilotage Services: All pilotage services shall be offered and rendered, and shall be requested and accepted by the vessel, on the express understanding that such pilotage services are provided or performed solely in the Harbor Pilot's capacity as a servant of the vessel and of her owners, masters, operators, charterers or agents, and not otherwise.

3.8 Berthing of Vessels: The berthing of vessels at Port Authority quays or wharves shall be at the direction of the Harbor Master.

- 3.9 Vessel Master Shall Assist the Harbor Master:** The Vessel Master, and the crew thereof, when requested by the Harbor Master, shall give and afford the Harbor Master all possible aid in the performance of any of his duties in relation to such vessel.
- 3.10 If No Person Aboard a Vessel:** If by reason of there being no person aboard a vessel with proper authority, or if by reason of an insufficient number of persons aboard such vessel, or if the Vessel Master and/or crew of a vessel refuses to aid the Harbor Master in moving, pumping, mooring or un-mooring such vessel when so directed by the Harbor Master, the Harbor Master is empowered to move, pump, moor or un-moor, place or remove such vessel. To this end, the Harbor Master may, if necessary, hire such assistance, equipment and tackle and/or purchase and put aboard such quantity of ballast as to him seems requisite all at the expense of the, owners, charterers or agents of such vessel. All costs shall be paid to the Port Authority before permission for departure is given. The Port Authority shall in no way be liable for any damage or loss occurring to any vessel in consequence of such proceedings.
- 3.11 No Person to Cut or Cast Off Lines:** No person without the consent of the Harbor Master shall cut or cast off any mooring lines, rope or tackle made fast or attached to any vessel, quay, wharf, mooring, buoy or other place when the same has been fastened or attached by the Harbor Master or by order of the Harbor Master.
- 3.12 Typhoon Evasion Plan:**
- a. **Typhoon Condition 3:** Vessels under 200 feet in length, and not normally home-ported in Guam, will depart from the Harbor if directed by the Harbor Master or designated representative. All disabled vessels must obtain permission from the Captain of the Port and the Harbor Master to remain in Port at a designated mooring. The intent of this provision is to require such vessels to depart from the Harbor while able to do so before conditions worsen, unless such vessels can be

adequately secured during the typhoon. The Harbor Master's order to depart for sea shall be final and not subject to appeal.

- b. **Typhoon Condition 2:** All vessels will depart for sea when directed by the Harbor Master or a designated representative except those disabled vessels authorized by the Captain of the Port or the Harbor Master. The Port shall be closed when so ordered by the Captain of the Port.

4.0 USE OF WATERWAYS AND HARBOR FACILITIES

- 4.1 **Port Authority Rules and Regulations Shall Govern:** The use of any waterway or facility under the jurisdiction of Port Authority by any vessel shall constitute the consent and evidences the agreement on the part of the vessel's owners, charterers and lessees to comply with, and be governed by, all terms and conditions of these Harbor Rules and Regulations, to pay all charges specified in the Port Authority Tariff Schedule, and to discharge all fines assessed against the vessel.
- 4.2 **Preference for Use of Wharves F-5 and F-6:** Preference in the use of wharfs F-5 and F-6 shall be given to vessels loading or unloading shipping containers.
- 4.3 **Testing of Engines at the Dock:** The engines of any vessel moored at any quay, wharf, dolphins, or other structure shall not be tested except by permission of the Harbor Master. This shall not apply to routine pre-departure warming up of engines.
- 4.4 **Speed of Engines During Dock Trials:** The speed of engines being tested as referred to in the preceding paragraph shall not exceed the speed of such engines when operated under a dead slow bell.

- 4.5 Responsibility for Any Damage Done During Dock Trials:** Any vessel testing her engines as previously referred to will be held responsible for any damage to quays, wharves or other vessels or property as a result of such testing of her engines.
- 4.6 No Vessel to Blow Tubes in Port:** No vessel shall blow tubes or emit unnecessary smoke or polluting vapors of any kind at any time while in port.
- 4.7 No Garbage to Be Dumped:**
- a. No garbage, rubbish or trash shall be dumped on the quays or wharves of the Port Authority, or into the waters of any harbor, marina or other boating facility. Pollution of any kind is prohibited, and penalties as provided by law will be imposed. Pollution of any kind shall be reported immediately to the Harbor Master. The United States Coast Guard shall be immediately notified of any discharge of oil or plastic into Guam Waters.
 - b. **Regulated Garbage:** No hazardous materials may be disposed of in garbage receptacles. All food or food contaminated garbage must be deposited in trash receptacles provided and marked "Regulated Garbage Only". All other garbage may be disposed of in general garbage receptacles. All vessels requiring regulated receptacles must submit a request to their agents (33 C.F.R. 158.410).
 - c. The United States Coast Guard and the Guam Environmental Protection Agency shall be immediately notified of any discharge of garbage into Guam Waters.
- 4.8 No Dumping of Raw Sewage.**
- a. No vessel, whether commercial or private pleasure craft, shall deposit raw sewage within the ports, harbors, bays, rivers, lagoons or other Guam waters, except as may be permitted by federal or local regulations. Violators of these regulations will be reported to the appropriate authorities. Penalties for any such violation will be assessed as provided by applicable law or regulation.
 - b. The Port Manager and the Harbor Master shall have the authority under these Rules and Regulations to inspect any vessel or craft to ensure that proper

standards of health and sanitation are being maintained. Should improper conditions be found to exist, the appropriate health authorities will be notified to take whatever actions are deemed necessary.

5.0 VESSEL MOVEMENTS

- 5.1 Control of Vessel Movements in the Harbor:** All vessels within the Harbor over fifty (50) feet in length shall advise the Marine Traffic Controller (Channel 13, VHF.FM) of all intended moves into, within, or out of the Harbor, giving the destination and departure time. Such vessels will operate under the direction of the Marine Traffic Controller pursuant to instructions issued by the Harbor Master or an authorized representative.
- 5.2 Control of Vessel Entry and Discharges:** All vessels entering Guam Waters for the purpose of unloading or transferring passengers or cargo in Guam shall be cleared for such purpose at the Port of Guam. No passengers, crew, cargo or any other property aboard vessels entering Guam may be off-loaded onto any wharf, pier, quay, dock or other facility, or transferred to another vessel, except as directed by the Harbor Master or the Captain of the Port (5 GCA S73115).
- 5.3 Port Manager and Harbor Master to Have Access to Vessels:** The Port Manager, Harbor Master, and/or such other person as may be designated, shall be permitted to enter upon and inspect any vessel to ascertain the kind and quantity of cargo thereon, and upon any rented or leased premises of the Port Authority of Guam to inspect such premises, as the interests of the Port Authority may require.
- 5.4 Having Anchor Ready to Let Go:** All commercial vessels entering or leaving a port, harbor or marina will have an anchor clear and in readiness to let go if required.

5.5 May Not Make Fast or Secure Except to Proper Bitts, Cleats, Etc. No person shall make fast any rope or mooring line to any wharf or part thereof, except to mooring piles, bitts, or cleats provided for that purpose.

5.6 Requirement to Have a Safe Gangway and Display Light: All vessels other than barges and vessels under 300 gross tons moored alongside of a wharf shall:

- a. At all times have a safe and proper gangway to the wharf; and
- b. Between the hours of sunset and sunrise display a light other than a navigation or anchor light that is visible from the harbor or fairway

5.7 Notification of Expected Time of Arrival (ETA), etc. The masters, owners, charterers or agents of any commercial vessel arriving at or departing from the Port of Guam shall notify the Harbor Master as soon as practicable of the vessel's:

- a. date and hour of expected arrival;
- b. departure date and time;
- c. draft;
- d. length over-all;
- e. gross tonnage; and
- f. vessel flag.

In the event of a change in such times or dates, the Harbor Master shall be notified immediately.

5.8 May Not Bring Logs, Rafts, Etc., Alongside the Quay: No person or persons shall cause any vessel, raft, log or other floating object to come alongside of, to be moored to, or near, any quay, wharf or pier in any manner that may cause damage to such quay, wharf or pier.

5.9 Removal of Vessel, Rafts, Etc., From Alongside Which May Do Damage: The Harbor Master shall remove to some suitable place any vessel, raft, log or other floating object which may cause damage to or interfere with the use of any quay or wharf. The

owner thereof, if known, shall be notified forthwith in writing of such removal; but if the owner is not known, due notice of such removal shall be given by posting a notice in a conspicuous public place near such vessel. If within ten days after the date of giving or posting such notice no claim is made for the property, the Harbor Master may sell or otherwise dispose of such vessel, log, raft, or other floating object and apply the proceeds of such sale to defray the expenses of the Port Authority and credit the remainder, if any, to the owner. The Port Authority of Guam shall not be responsible for any loss or damage to such vessel, log, raft, or other floating object.

- 5.10 Damage to Quays, Wharves, Wharf Structures, Utilities and Cargo Handling and Storage Areas:** The vessel masters, owners, charterers, and agents requesting a berth, cargo space allocation, or use of harbor facilities incident to the receiving, discharging, loading and removal of cargo will be responsible:
- a. For all damage caused to Port Authority property by himself, his employees, or any agent, subcontractor or materials handling firm under contract to them doing the discharging, loading, repairing or bunkering of a vessel; and
 - b. For providing necessary protection to harbor facilities to protect them from damage in excess of normal wear and tear.
 - c. **Repairs to Port Authority Property:** Any person responsible for damage to Port Authority property shall make repairs in accordance with Port Authority specifications. If the repairs are completed improperly or if the responsible party does not undertake the repairs within a reasonable time, the Port Authority will act to repair the damage and will bill the responsible party for the following:
 - i. Direct labor charges and cost of materials, plus an overhead charge of 25 percent if the repairs are made by Port Authority employees; or
 - ii. The contractor's charges plus an administrative charge of 25 percent if the repairs are made by a contractor hired by the Port Authority.

5.11 Maximum Speed of Vessels:

- a. All vessels over fifty (50) feet in length shall proceed at a rate of speed (except in case of emergency) commensurate with safe navigation and slow enough so as not to cause damage to other vessels and/or property.
- b. Vessels under fifty (50) feet when within three hundred (300) feet of any wharf, pier or quay, or within the Piti Channel, shall not exceed ten (10) nautical miles per hour, and when within fifty (50) feet of any wharf, pier or quay, a no wake speed must be maintained.
- c. Nothing herein shall preclude the Harbor Master from setting different rates of speed to meet special conditions. Otherwise, except as provided in the above subsections, the “Inland Rules – Rules of the Road” shall govern the operations of all vessels in the Harbor.

5.12 Priorities and Scheduling of Vessel Movements and Berth Assignments in Apra Harbor:

- a. Priorities for vessel movements, other than for typhoons and unless otherwise authorized by the Harbor Master, shall be as follows:
 - i. Government vessels when responding to emergencies;
 - ii. Vessels stopping to discharge sick or injured person(s);
 - iii. Passenger vessels;
 - iv. Inbound vessels scheduled to load or discharge cargo upon arrival:
 - (1) Cargo vessels;
 - (2) Tug and tow;
 - (3) Tankers.
 - v. Shift cargo vessels when required for further cargo handling;
 - vi. Outbound vessels with inter-island cargo;
 - vii. Incoming vessels arriving for repairs or bunkers;
 - viii. All others.
- b. Priorities for vessel movements in the event of a typhoon warning, unless otherwise authorized by the Harbor Master, shall be:
 - i. Government vessels;

- ii. Tankers;
 - iii. Vessels with explosive cargo;
 - iv. Passenger vessels;
 - v. Freighters;
 - vi. Others.
- c. **Scheduling Procedures:** Agents shall submit the following to the Harbor Master:
- i. Copies of passenger vessel schedules as far in advance as possible;
 - ii. At the earliest possible time, any ship scheduled for Port Authority. This shall constitute a tentative booking;
 - iii. Prior to 11:00 A.M., the week before a vessel's arrival, or as soon thereafter possible, submit a preliminary Expected Time of Arrival (ETA) to the Harbor Master.
 - iv. Prior to 11:00 A.M., the day before arrival, a final ETA shall be submitted to the Harbor Master. A schedule shall then be prepared by Harbor Master. The schedule shall be based on the priorities listed in sub-paragraph a. above and on the final ETA, and shall be published by 2:00 P.M. each day. All changes thereafter must be reported to the Control Tower operator. Berthing assignments for changes in schedules will be made on a first-come-first-served basis, and shall not interfere with established Harbor Master schedules.
 - v. Prior to 11:00 A.M., daily, submit to the Harbor Master known departures and shifts for the following day. All changes thereafter are to be submitted direct to the Marine Traffic Controller on duty. Changes in schedules will be based on the priorities in sub-paragraph a. above, a first-come-first-served basis, and shall not interfere with established Harbor Master schedules.
 - vi. Vessels arriving and/or departing at the same hour will be handled in accordance with the priority described in sub-paragraph a. above. Within any category, the vessel that was assigned a confirmed booking first will be

permitted to move first unless the vessel is late or operating conditions in the harbor dictate otherwise.

vii. Agents are requested to advise the Harbor Master at the earliest possible time when vessels scheduled to call Guam change their ETA, or to provide at least 24 hours notice of cancellation of their ETA or itineraries.

d. Other requirements:

- i. Applications for a berth assignment shall include information as to any peculiar requirements (i.e., camels needed for side-port bunkering, whether one side has to be alongside pier for repairs or other special reasons, etc.). Also, indicate any unusual physical features that might affect piloting or mooring, such as engine or steering gear problems.
- ii. Vessels using side-ports for bunkering, storage, passenger debarkation, or other reasons, should have side-ports closed when approaching the berth, in order to avoid damage to the pier or to the side-port.
- iii. Except for those vessels entering to load petroleum products or for special repairs requiring minimum draft, all vessels will be ballasted so as to reduce freeboard to a reasonable degree, and to provide positive stability for the class vessel. Ballasting and de-ballasting shall be accomplished seaward of ALPHA Hotel.
- iv. Agents shall arrange for proper and adequate linemen on time for all vessel arrivals, shifts and departures.
- v. **Pilots and Tugs:** Agents shall make all arrangements for the employment of pilots and adequate tug assistance.
- vi. It is the duty of the vessel's agent to keep Customs and Immigration officials advised as to the docking time of vessels being handled by them. It is not a responsibility of the Harbor Master to arrange for such officials to board, inspect and clear vessels.
- vii. All changes in a vessel's arrival time, shifting time or sailing time must be made at least two (2) hours in advance of the previously booked time.

- 5.13 Vessels Entering and Exiting the Outer Harbor:** The following regulations apply to all vessels entering and exiting the outer portions of the Harbor:
- a. Except for vessels not more than 100 feet in length, tow boats or tugs without tows, no vessel may pass another vessel within five hundred feet (500') of the Outer Harbor entrance.
 - b. Vessels over 100 gross tons shall: (a) steady on the entrance range at least two (2) miles west of the entrance when approaching the Harbor, and shall (b) steady on the range when departing the Outer Harbor.
 - c. No vessel may leave the Outer Harbor until any inbound vessel over 100 feet in length has cleared the Outer Harbor Entrance.
- 5.14 Use of Line Handlers:** All commercial vessels using Port Authority wharves, piers, or other dock facilities must use shore provided line handlers for reasons of safety. Dock Masters and other personnel from the Harbor Master's office are not to be used in lieu of such line handlers.
- 5.15 Anchoring in Fairways:** No vessel shall anchor in any fairway so as to obstruct vessel movements or the approach to any wharf (ref. 33 C.F.A. Part 166).
- 5.16 Authority to Establish Anchorages:** The Harbor Master is authorized to designate areas within the Harbor under the jurisdiction of the Port Authority for anchorage and to issue anchorage permits, provided such designations are in conformity with all federal and territorial laws and regulations.
- 5.17 Launching and Landing of Helicopters and Aircraft:** The launching and landing of helicopters or other manned aircraft from a vessel moored or alongside another vessel, or within five hundred feet (500') of any Port Authority owned or controlled pier, wharf, quay, bulkhead, landing, dolphin or other mooring facility is strictly prohibited. No

helicopter or aircraft may take off or land at the designated landing zone ("LZ") at Golf Pier without prior permission of the Harbor Master.

- 5.18 Communications:** Operational communications within the HMO are conducted by Marine VHF Radio (Channel 13) and commercial telephone (671.447.8697). The Captain of the Port may also be contacted by Marine VHF Radio (Channel 13) or telephone (671.339.2001, ext. 112 or 113). All users of Marine VHF Radio communications equipment are encouraged to voice traffic, maintain circuit discipline, and to broadcast on "low power" whenever possible.

6.0 PILOTAGE

- 6.1 Pilot Service:** Pilot services are available on a 24 hour basis for Apra Harbor. Pilots are required to board inbound vessels and leave outbound vessels at Alpha Hotel (Pilot Station) two nautical miles West of Udal (formerly Orote) Point to insure that the vessel is properly aligned on the entrance range. However, depending on weather conditions, pilot boarding at a different location may be permitted by the Harbor Master for safety reasons on a case by case basis.
- 6.2 Pilots and Vessel Masters to Observe All Regulations:** Pilots and Vessel Masters will observe all harbor, quarantine, immigration and other Federal regulations.
- 6.3 Pilotage Waters:** Pilotage waters as established under this Chapter shall consist of all waters of the Territory within two nautical miles of Udal (formerly Orote) Point and all waters within Apra harbor, exclusive of federally restricted waters.
- 6.4 Mandatory Use of Harbor Pilot:** Every vessel involved in trade or commerce, other than an exempt vessel, entering, departing from or traversing the waters of the Harbor shall employ a Harbor Pilot. However, a vessel declared by the Harbor Master or the

Captain of the Port to be in immediate danger of destruction or which poses an immediate hazard to public safety by its presence in any harbor may be moved without a Harbor Pilot when a Harbor Pilot is not immediately available.

6.5 Exempt Vessels: A Harbor Pilot is not required for:

- a. Vessels not involved in trade or commerce;
- b. Enrolled and other vessels that are exempt under the laws of the United States of America, provided they are under the direction and control of a federally licensed pilot;
- c. Vessels home-ported in Guam and involved in the tourism trade, such as dinner-cruise boats, diving and fishing charter boats, submersibles and rental craft.

6.6 Exempt During Daylight Hours Only: The following vessels, not otherwise exempt as provided for in Section 6.5 above, may enter, exit and be operated in the Harbor without the assistance of a Harbor Pilot, but only during daylight hours:

- a. Vessels under 500 gross tons provided that the Vessel Master has previously entered and exited the Harbor while operating a vessel with the assistance of a licensed pilot and provided that the Vessel Master or mate on board the vessel is able to communicate in the English language with the Harbor Master and the Captain of the Port and provided that adequate two-way communications between the vessel and the Harbor Master and the Captain of the Port are continuously maintained, either directly or through the vessel's agent, while the vessel is underway in Guam Waters;
- b. Tugs and tows home-ported in Guam or the Commonwealth of the Northern Mariana Islands provided that the master of the tug and tow has previously entered and exited the Harbor while operating a vessel with the assistance of a licensed pilot.

6.7 Exception for Safe Navigation: This section is not intended to negate or limit the Harbor Master's responsibility for the safe navigation of all vessels within Guam waters. Accordingly, the Harbor Master may recommend or require the assistance of a pilot for any vessel exempt by this provision if the Harbor Master determines such is necessary to ensure safety in any port or other waters of the territory.

6.8 Priority for Pilot Services:

- a. A Harbor Pilot will offer his services in the order of priority established by the Harbor Master, unless another vessel is observed approaching a dangerous position in which case effort will be made to offer to board and assist the latter vessel.
- b. All Harbor Pilots will aid and assist, by every means within their power, any vessel in distress.

6.9 Pilots to Bring Vessels to Berths Assigned by the Harbor Master: A pilot bringing a vessel inward, unless required to anchor for quarantine, will bring the vessel to such wharf or berth as the Harbor Master may direct.

6.10 Pilots for Small Craft: Every person operating small craft in a Guam harbor, marina or other boating facility, or through channels or entrances leaving or approaching same, shall do so at their own risk. Harbor pilots can be made available for small craft, if desired, as set forth in the sections above.

6.11 Pilot Licensing Rules and Regulations: The following rules and regulations adopted pursuant to the Compulsory Pilotage Act of 1999, Public Law 25-09.

- a. **License Required:** No person shall pilot, or offer to pilot, a vessel not exempt pursuant to these rules unless he has first obtained a pilot's license from the Port Authority.
- b. **License Qualifications:** The Port Manager shall issue a license upon (1) application and payment of the application fee, (2) issuance or presentation of a

United States Coast Guard license duly endorsed for the piloting of vessels into, out of and within the Harbor.

- c. **License Term and Automatic Renewal:** Each license shall be effective for a period of five (5) years and shall be automatically renewed upon application therefor, upon payment of the application fee, as long as the applicant possesses the minimum qualifications established by these rules and remains in active service as a pilot in the territory (refer v. below). However, nothing herein shall prevent the suspension, revocation or denial of a pilot's license for good cause, in accordance with the provisions of these rules or applicable law.
- d. **Pilot License Fees:** Each applicant shall pay a fee of \$100.00 for a pilot's license, or for the renewal thereof. Such fees shall be payable to the Port Authority.
- e. **Denial, Suspension or Revocation:** In addition to any other action authorized by law or these rules and regulations, the Port Manager may deny the issuance of a pilot's license to any applicant and may suspend or revoke the license of any pilot for cause, including but not limited to the following:
 - i. Violation of this Chapter or any rule or regulation of the Port Authority of Guam;
 - ii. Negligent pilotage;
 - iii. Habitual use or consumption of any substance rendering a harbor pilot unfit to be entrusted with the safe navigation of a vessel;
 - iv. Lack of ability to perform the duties of a harbor pilot;
 - v. Failure to remain engaged in regular or active service as a pilot in the territory (i.e., completing at least five (5) trips each quarter or three-month period);
 - vi. Procurement of a license through fraudulent misrepresentation or deceit;
 - vii. Violation of any law or regulation prohibiting unfair or deceptive acts or practices;
 - viii. Violation of any law or regulation intended to promote marine safety or protect navigable waters or the environment;

- ix. Failure to report a marine accident (i.e., any vessel grounding, collision, allision, oils or hazardous materials spill, or a failure of main engine, primary steering system, radar or echo depth sounder) in accordance with the rules and regulations of the Port Authority of Guam; or
 - x. Failure to maintain a current and valid federal pilots license or appropriate pilotage endorsement issued in accordance with Title 46, United States Code, Chapter 71.
- f. **Exhibition of License.** A Harbor Pilot, upon boarding a vessel, and whenever required by the Vessel Master thereof, shall exhibit his or her pilot's license or a photocopy thereof.
 - g. **Piloting Without a License.** Unless the person holds a current Guam license to do so, no person shall pilot or offer to pilot a vessel not exempt by these rules. Nor shall any person on board a tug or tow boat tow, or agree to tow, a vessel or barge not exempt by these rules, unless the vessel shall have on board a pilot duly licensed pursuant to these rules.
 - h. **Rates of Pilotage.** The Port Authority of Guam shall not provide or warrant the availability of pilot services, which shall be provided solely by the private sector. The terms of any contract for pilotage, including rates or pilot fees, shall be negotiated and agreed upon by the parties thereto, except as specifically provided herein.
 - i. **Complaints.** Any person having a complaint against a Pilot shall make such complaint as soon as possible in writing to the Harbor Master, who shall immediately investigate the complaint and report thereon to the Port Manager. All complaints shall be processed and adjudicated in the manner provided in Sections 1.8 through 1.11 of these Rules and Regulations. A copy of each complaint shall also be immediately forwarded to the Captain of the Port.
 - j. **Pilot License Review Board.** The Port Manager shall appoint a Pilot License Review Board, comprising the Harbor Master, who shall serve as its Chairperson, an Assistant Harbor Master, three licensed Harbor Pilots (not more than two employed by the same company), and two members representing the shipping

industry. Each member, except for the Harbor Master and the Assistant Harbor Master, shall serve for a term of two years or until replaced. The purpose of the Pilot License Review Board is to review and recommend appropriate disposition of complaints and other disciplinary action against a Harbor Pilot to the Port Manager and the Port Authority Board of Directors. No pilot's license shall be suspended or revoked, or any disciplinary action taken, unless such action has been reviewed by a majority of the members of the Pilot License Review Board, or thirty days have passed from submittal of the matter for such review. The Port Manager and the Port Authority Board of Directors shall consider the recommendations of the Pilot License Review Board prior to implementing disciplinary action.

7.0 TUG SERVICE

- 7.1 **Availability of Tugs:** Tug escort services and assistance are available on a 24-hour basis for the Harbor. All arrangements shall be made by the vessel's agent sufficiently in advance to ensure that all vessels not exempt by these rules have adequate tug service.
- 7.2 **Use of Tugs:** A tug boat (or tugs) shall be used by all commercial vessels, exceeding 250 feet in overall length entering, leaving, or operating within the Harbor, except research vessels and vessels up to 300 feet in overall length equipped with an operational bow thruster. A fishing vessel's use of a skiff boat in lieu of a tug boat is permitted provided there is constant communication between the skiff operator and the Vessel Master.
- 7.3 **Safety Exception:** For reasons of safety, the Harbor Master may require any vessel to use the services of a tug or tugs.
- 7.4 **Tow Capacity:** Tow escorts shall be of sufficient capacity to safely tow the vessel should the vessel become disabled.

7.5 **Length of Escort Service:** Whenever weather and sea conditions permit, all tug escorts shall commence at Alpha Hotel (Pilot Station) and continue until the escorted vessel is safely and completely anchored, moored or docked in accordance with the Harbor Master's orders.

8.0 SAFETY, CLEANLINESS AND ENVIRONMENTAL REGULATIONS

- 8.1 **Handling of Explosive and Other Dangerous Articles:** Handling of shipments of explosive and other dangerous articles, as defined by the Titles 33 and 49, Code of Federal Regulations, will be permitted upon full compliance by the shipper, carrier, and terminal operator with all applicable laws and regulations, including Research and Special Programs Administration and United States Coast Guard regulations governing the packaging, marking, labeling, handling and transporting of such articles.
- 8.2 **Fire on Board Ship:** In the event of fire occurring on board any vessel in port, except vessels underway, such vessels will sound five (5) prolonged blasts of the whistle or siren as an alarm indicating fire on board or at the dock to which the vessel is moored. Such signal will be repeated at intervals to attract attention and is not a substitute for, but shall be used in addition to, other means of reporting a fire. The words "prolonged blast" shall mean a blast from four (4) to six (6) seconds in duration. This signal shall not be used for any other purpose.
- 8.3 **Explosives:** Except for Department of Defense vessels, no vessel containing more than 25 short tons of Class 1.1 and 1.2 (old classes A and B explosive) as specified in 49

C.F.R. 176.100 and certain 1.5 and 5.1 materials as specified in 49 C.F.R. 176.415 may enter the Harbor except as authorized in writing by the Captain of the Port.

- a. No facility may discharge from, load on, handle, or re-stow on board class 1.1 and 1.2 and certain 1.5 and 5.1 materials without notifying the Harbor Master and obtaining a permit from the Captain of the Port.
- b. All vessels entering or departing Apra Harbor with less than 25 tons of explosives on board may conduct cargo operations as follows:
 - i. Cargo stored within 40 feet of any explosive container shall not be disturbed or moved; and
 - ii. Cargo stored above and below of any explosive container shall not be disturbed or moved.

8.4 Handling, Loading and Unloading of Explosives: All handling and loading or unloading of explosives shall be done in a safe and careful manner, and in accordance with all Federal laws and regulations pertinent thereto.

8.5 Hauling of Explosives: All hauling of explosives away from or to the pier shall be done in a safe and careful manner and in accordance with applicable laws and regulations of the Guam Fire Department.

8.6 Storage of Hazardous Cargo: No Nitrate of Soda, Nitrate of Ammonia, Sulphur or other hazardous or toxic substance shall be stored or left upon any wharf for more than four (4) hours unless packed in sound and leak-proof containers. Such materials shall be under the continuous care of a competent watchman satisfactory to the Harbor Master until removed. The cost of such watchmen shall not be borne by the Port Authority.

8.7 Removal of Hazardous Materials: Indiscriminate sweeping of spilled hazardous material is an unsafe practice. The identity of spilled cargo shall be immediately determined. The Captain of the Port shall be notified of all hazardous material spills on board ship, in the water, or on the pier or facility. Except in an emergency situation, no

removal or cleanup efforts shall be undertaken without approval of the Captain of the Port.

- 8.8 Removal of Acid From Wharf:** Acids of a dangerous character such as sulfuric, muriatic and nitric acids shall be removed from the wharf immediately upon discharge from the vessel, and no such acid shall be put upon a wharf for shipment until the carrier is ready to receive it. Permission of the Harbor Master must be secured in the event it becomes necessary to handle such cargoes at times other than specified.
- 8.9 Hazardous and Flammable Substances in Leaky Containers:** No gasoline, distillate, kerosene, benzene, naphtha, turpentine, paints, oils or other flammable substance shall be delivered onto any wharf in leaky containers without authorization from the Coast Guard and necessary permits from Guam and U.S. Environmental Protection Agencies. All such substances unloaded from any vessel in a leaky container shall be removed immediately.
- 8.10 Combustible Materials Not to Be Flame Treated:** No combustible materials such as pitch, tar, resin or oil shall be flame treated on board any vessel without the permission of the Harbor Master.
- 8.11 Vessels Fumigated or Smoked at Dock:** No vessel shall be fumigated or smoked at any wharf without permission in writing from the Port Manager or Harbor Master and approval from local and federal authorities.
- 8.12 Fuel Burning Steam Generating Appliances:** All fuel burning steam generating appliances when used on any wharf under control of the Port or on any scow, pile driver or other vessel working alongside or near any wharf shall be equipped with spark arresters satisfactory to the Harbor Master. At the close of each day's work all ashes, cinders, shall be promptly removed and shall not be disposed of in, near or upon the waters of the Harbor.

- 8.13 Repair, Manufacturing, Construction Work or Maintenance Work:** No person shall make any repairs or do any kind of manufacturing, construction or maintenance work on any wharf without the permission of the Port Manager or Harbor Master.
- 8.14 No Smoking in Certain Areas:** Smoking is prohibited at all times within any freight shed, or upon any wharf apron, and during the time cargo is being loaded, unloaded or stored on any unshaded pier, except within areas designated by the Harbor Master and plainly marked "Smoking Area," and no person shall enter into, stand in or under, or pass through any such wharf or structure with a lighted pipe, cigar, cigarette, match, fire or any flame of whatever nature.
- 8.15 Use of Explosives:** The use of explosives is strictly prohibited on land, on any wharf, or in any shed or other structure, or in the waters in the immediate vicinity of the same, without the written approval of the Harbor Master and appropriate permits from local and federal agencies.
- 8.16 Loading and Unloading of Flammable Materials:** Loading or unloading of flammable liquids shall be in strict accordance with applicable federal and Guam laws and regulations (ref. 33 C.F.R., 126.15(0), Subpart L).
- 8.17 Welding and Burning Operations on Piers and Wharves and Aboard Vessels:**
- a. **Hot Work Permit:** Before any welding or burning operations can be done on wharf or waterfront facility, it is required that the party intending to do such work secure a permit from the Port Authority Safety Office and the Captain of the Port. All hot work operations on board ships will be conducted in accordance with 29 C.F.R. 1915 Subpart B.
 - b. **Inspections:** Before any welding, burning, spark-or flame-producing operations are undertaken aboard any ship, dock, wharf, or waterfront facility, all spaces subject to the accumulation of dangerous gases or gas producing materials, in or

on which hot work is to be performed, and such others spaces as may be required by the United States Coast Guard, or required under the provisions of National Fire Protection Association Standards, shall be inspected by a Marine Chemist or a licensed Industrial Hygienist. The Captain of the Port may also authorize, in writing, "Coast Guard Authorized persons" to conduct such inspections on a case by case basis. This authorization and certificate will be limited to the specific incident or specific vessel identified.

- i. Such spaces shall include, but shall not be limited to, oil and ballast tanks, cofferdams, void spaces, boiler and machinery spaces, pump rooms, compartments treated with combustible rust preventatives, including hollow rudders and skegs, paint lockers and shaft alleys.
- ii. On completion of inspection, a certificate shall be issued setting forth in writing the conditions found at the time of inspection and indicating by appropriate designations whether or not the contemplated repairs or alterations can be undertaken with safety.
- iii. One copy of the Marine Chemist or licensed Industrial Hygienist or Coast Guard-authorized person's Certificate shall accompany the application for a permit, and one copy shall be left aboard ship or waterfront facility, preferably posted in a conspicuous place near the gangway.
- iv. Hot work shall be performed in the locations and under the procedures designated in writing on the permit and Marine Certified Chemist's Certificate.
- v. Loading or moving of cargo or the movement of the ship from one location to another within the shipyard or installation for which a Marine Chemist or a licensed Industrial Hygienist Certificate has been issued is permissible without requiring an additional inspection and the issuance of a Marine Chemist or a licensed Industrial Hygienist Certificate when in the judgement of the Marine Chemist or licensed Industrial Hygienist or Coast Guard-authorized person such movement will not create a hazardous situation. However, the movement of ships from one

jurisdiction area to another shall require an additional inspection and the issuance of a new Marine Chemist or a licensed Industrial Hygienist Certificate before continuing hot work.

vi. All welding and burning operations shall be under the supervision and control of a competent foreman or supervisor who shall see that all regulations pertaining to welding or burning operations are complied with.

c. **Operations.** In all types of operations, fire prevention shall be the watchword, and all workmen should bear in mind that fire prevention is their individual responsibility. All combustible materials must be removed from the area in which the welding and burning operations are being conducted, or properly protected if removal is not feasible.

i. Welding or burning operations shall not be conducted around hatches or companionways, unless they are sealed with their own cover or door. In the event this is not possible, an asbestos blanket or other flameproof material may be substituted in their place. Such substitutions shall require the approval of the inspecting authority issuing the permit.

When welding or burning operations are being conducted in such locations that sparks could spatter or fly over the outside of the ship's hull, a protective shield composed of metal or other flameproof material shall be provided to prevent the sparks from igniting the wharf or dock, barges, or oil slicks on the water, or other combustible materials.

Water charged fire mains, with hoses and nozzles attached of sufficient length so that the water can reach the base of any fire which may occur, shall be on each deck of the ship where welding or burning operations are being conducted. A fire watch shall be provided in each space that is in direct contact with the surface where hot work is taking place.

When welding or burning operations are conducted on a wooden wharf, or a fire-resistant paved wharf with cracks or crevices, the entire surrounding area shall be drenched with water by means of a hose line and

- kept wet during the entire operation to prevent sparks from igniting the flooring or timbers below.
- ii. No refueling of equipment with flammable petroleum products will be permitted on any pier or wharf without approval from the Port Authority Safety Office and the Harbor Master.
 - iii. On waterfront facilities which are used for repair work, no gasoline or other flammable liquid shall be stored except as required for normal operations and then only when stored in approved containers and in quantities approved by the Port Authority Safety Office.
 - iv. Petroleum based cleaning fluid which has been treated to satisfactorily reduce the flash point may be used for washing grease from machinery parts in an approved location safe for hot work operations. All paints or other flammable liquid materials shall be kept securely covered except when in actual use.
 - v. Gasoline-powered generators or compressors shall not be operated on the vessel, but must be kept on the wharf. Said equipment shall be equipped with a spark arrester on the exhaust pipe, and the drip pan set in a position to protect the wharf in the event of any gasoline or oil being spilled. An attendant shall stand by at all times equipped with an approved fire extinguisher to extinguish any fires which may occur. At the conclusion of operations, said gasoline-powered equipment shall be removed from the wharf. Where insulated wire cables are in the path of traffic, they shall be protected from damage by crossovers, and where they lead into the ship they shall be protected from chafing damage by a protective-wrapped covering. Where electrical cables lead from one vessel to another, the same protective measures shall be used.
 - vi. When acetylene or oxygen cylinders are used, the following precautions shall be followed at all times.

- (1) Compressed gas cylinders shall be used in a vertical position only, and shall be secured at all times to prevent falling. Cylinders, when in use, shall be kept on the pier at all times.
- (2) Do not drop cylinders; ruptured cylinders may explode. Do not use cylinders for rollers, anvils, or supports.
- (3) When cylinders are not in use, close valves and replace protective caps.
- (4) Cylinders shall not be handled by cranes, except when they are placed in specially constructed bottle racks or in a skip box. Under no circumstances shall gas cylinders be hoisted by a magnet, manila line, steel cable, chains, slings or nets.
- (5) Cylinders not in use shall be secured on a wheeled truck so they can be easily moved if a fire occurs in the immediate vicinity.
- (6) When permanently installed on a pier and exposed to the sun, cylinders shall be provided with adequate protection from the heat.
- (7) Valve and hose connections shall be kept tight to prevent leaks. Leaks shall be tested with soapy water and not with flame.
- (8) Cylinders shall be kept away from sparks, flame or heat.
- (9) Under no circumstances shall smoking be permitted in the vicinity of gas cylinders, whether or not burning/welding operations are in progress.
- (10) Acetylene hoses shall be tested frequently for leaks. If acetylene has been escaping in confined areas, the areas shall be properly ventilated and cleared of all gas, and the area tested and inspected by a competent person, before welding or burning operations are resumed.
- (11) No acetylene torch shall be left unattended while burning. When not being used the hose shall be coiled or looped in a workman-like manner and placed on a bracket at the cylinders, and the pressure in the hose relieved by closing off the valves on the cylinders and

opening the valves on the torch. Lines left unattended during meal times or other extended periods shall be either removed from compartments or disconnected at the cylinders.

(12) Oxygen cylinders shall be kept free from oil and grease at all times, because oxygen under pressure brought into contact with oil or oily substances oxidizes so rapidly that an explosion may occur.

(13) Oxygen shall not be used to blow out oil pipes, for paint spraying, or for pneumatic tools, as an explosion might occur.

(14) Compressed gas cylinders shall not be refilled on any wharf.

- d. Notification of Other Agencies:** When the Harbor Master or the Port Authority Safety Officer issues a permit to do hot work, the appropriate federal and local agencies shall be notified of such action. When hot work is being done in the Harbor, the United States Coast Guard Marine Safety Officer on duty at the time and the Harbor Master shall be immediately notified.

8.18 Bunkering:

- a. At least four hours prior to bunkering vessels at any wharf or berth, the supplier shall first obtain permission from the Harbor Master.
- b. The United States Coast Guard Marine Safety Office must be notified at least four hours in advance for bunkering operations at anchorage for all vessels with a capacity greater than 250 barrels of oil (refer 33 C.F.R. 156).
- c. During bunkering operations in which bunkers are being taken through an open fuel intake or from a fuel tank truck, where a fire hazard may exist, cargo operations shall cease. This shall not apply when bunkers are taken from a pipeline connected by gasketed joints directly to the vessel piping system. However, the Harbor Master or Safety Officer may direct that operations be discontinued when an oil spill occurs (as from a broken hose or ruptured gasket) or if a potentially hazardous situation exists.
- d. No welding, burning, or other types of work that may create hazardous conditions shall be permitted while bunkering operations are in progress. This

time period shall commence from either (a) the tank truck arrives onto the wharf, or (b) when a hose is hooked up to the wharf's fuel line, or (c) the vessel's bunkering connection is opened. The time period shall cease when either (a) the tank truck is off the wharf, or (b) the wharf and vessel fuel connections have been secured.

- e. The mooring lines of the vessel shall be checked prior to the bunkering operation to ensure they are secure and to prevent any surging.
- f. Prior to any fuel line hook-up being made or a fuel hose stretched to a vessel, a grounding line shall be connected from the vessel to the wharf. This grounding line should be connected first to the vessel and then connected to the shore ground.
- g. Except when bunkers are taken from a pipeline connecting through the gasketed joints directly to the vessels piping system, all engines, motors, fans and other devices liable to produce sparks located closer than fifty (50) feet shall cease operation. On small craft, such as fishing boats and pleasure boats, all ports, windows, doors and hatches shall be closed.
- h. Only intrinsically safe flash lights may be used during bunkering operations.
- i. Drip pans will be placed under all points where fuel could leak onto either the wharf, decks, or into the harbor, and scuppers shall be blocked to prevent fuel from escaping into the Harbor.
- j. There shall be no smoking, lighting of matches, lighters or use of other devices producing sparks or flame or the throwing of switches (other than certified non-sparking types) on all vessels bunkered at berths.
- k. No unauthorized persons shall be allowed either on board the vessel, or in the immediate vicinity of the bunkering point.
- l. When a hose and nozzle are used during bunkering operations, the nozzle must be kept in continuous contact with the vessel's fuel intake opening to eliminate the possibility of static sparks.
- m. For all vessels with a capacity greater than 250 barrels of oil; a person in charge with the proper endorsement required by 33 C.F.R. 155.700 shall be stationed in

the vessel by the fuel intake at all times while the discharge operation is in progress. For all transfers to U.S. or foreign vessels, in accordance with 33 C.F.R. Part 156.120, the vessel and facility person in charge shall both be stationed at the site of the transfer operation while the operation is in progress. Such person should have a good command of the English language in order to communicate with shore personnel. Should there be no one in the crew capable of this, an interpreter must be present during the entire fueling operation.

- n. Upon completion of the taking of bunkers, all shore connections must be closed and the vessel's filling lines closed prior to disconnection of the grounding lines. The grounding lines shall be disconnected from the shore first, then from the vessel.
- o. Any spilled oil or fuel shall be cleaned up immediately. The vessel should be ventilated thoroughly before the opening of doors, hatches, portholes, etc., or the operating of any spark producing mechanism, to dispel any fumes for at least five minutes before resuming normal operations. On small craft such as fishing boats and pleasure craft, particular attention should be paid to ensuring that fumes have not accumulated in the bilges, hatches, or other below deck spaces.
- p. The Harbor Master shall be notified upon completion of all bunkering operations.
- q. Compliance is also required with all other federal and territorial laws and regulations pertaining to bunkering, not specifically mentioned above, such as the flying of a red ("Baker") flag.

9.0 USE OF WHARVES

- 9.1 **Cleanliness of Wharves:** All wharves, sheds and open areas which may be used for the handling of cargo shall be kept in a clean and sanitary condition and free from all obstructions.
- 9.2 **Charges for Cleaning Wharves Assessed Against Vessel:** In cases where the Port Authority takes over the cleaning of wharves, sheds or open areas, a charge shall be

computed as the total cost of labor and/or materials used and shall be assessed against the vessel which is responsible for the cleaning.

9.3 Identification of Owner of Mobile Equipment: The owner and lessor, if under lease, of all mobile equipment used on any property under the control of the Port Authority in connection with the handling of cargo or shipping containers, such as forklifts, cranes, tractors, straddle trucks, chassis or other equipment, shall be clearly identified on such equipment.

9.4 Admittance of Vehicles into Port Area: No vehicles shall be admitted upon any wharf or in any other area used for the storage of cargo except for the purpose of delivering or picking up freight, unless the owner thereof has been granted a permit by the Port Manager or the Harbor Master.

9.5 Speed of Vehicles in Port Area:

- a. Trucks and other vehicles entering upon a wharf for the purpose of delivering or picking up freight shall not be driven at a speed greater than ten (10) miles per hour. Mobile equipment used in the handling of freight during cargo loading and unloading operations shall be under the direct supervision of a stevedoring foreman and shall not be operated at a speed greater than ten (10) miles per hour.
- b. Trucks and other vehicles operating in Container Yards shall not be driven at a speed greater than fifteen (15) miles per hour.
- c. Vehicles on roadways adjacent to wharves and pier sheds shall not be driven at a speed greater than fifteen (15) miles per hour, unless otherwise indicated by appropriate traffic signs.

9.6 Motor Vehicle to be Equipped with Fire Extinguisher: All vehicles entering upon Port Authority facilities shall have a fire extinguisher. Vehicles used to convey the sick or the infirm, ambulances and vehicles of hospitals and/or the health or police departments, and other

vehicles used for official government business, may enter upon wharves without a fire extinguisher.

9.7 Paragraphs 9.5 and 9.6 Not to Apply to Vehicle Being Shipped: The provisions of Section 9.5 and 9.6 shall not apply to vehicles left on a wharf for the purpose of shipping the same on any vessel, nor shall they apply to any vehicle which has been discharged as freight.

9.8 Fowl, Animals or Livestock on Wharves: No fowl, animal or livestock of any kind shall be allowed to remain on any wharf for a period longer than six (6) hours without being fed and watered. After any fowl, animal or livestock shall have been unloaded on a wharf, it shall be removed from the same within twenty-four (24) hours. No shipment of fowl, animal or livestock subject to quarantine shall be unloaded from a vessel unless cleared by the Department of Agriculture, or unless arrangements have been made for acceptance for quarantine. All such fowl, animals and livestock requiring quarantine shall be removed from the wharf within eighteen (18) hours. All expenses incurred in the care and maintenance of fowl, animals or livestock while on a wharf shall be paid by the consignees thereof, and the Port Authority shall have a lien upon same until all expenses are paid.

9.9 All Vehicles Subject to Orders of the Harbor Master: All vehicles operating on any wharf shall be subject to the orders of the Harbor Master.

9.10 Placement of Goods and Equipment: Any person handling goods or using equipment on a wharf, or bringing goods thereon for shipment, shall place, store or stack such goods or equipment in such a way as not to be an impediment to approaches to the wharf, nor an obstacle to the removal of other goods, nor cause damage to the wharf. No goods shall be so placed as to restrict or prevent the use of mooring bitts, cleats, bollards or other devices used for mooring purposes. No goods shall be so placed as to restrict or prevent the use of tracks, water connections, fire hydrants, gutters, oil and bunker connections, or drains.

9.11 Closing of Wharves: The Harbor Master may close any wharf, or any portion thereof, or restrict the use of the same whenever in his opinion such closure or restriction is necessary to ensure the safety, health or welfare of the public. No person shall enter whenever in his opinion it is advisable to do so. No person shall enter upon a wharf so closed or restricted without the permission of the Harbor Master.

9.12 Suspension of Port Operations:

- a. The Port Manager or Harbor Master may order the suspension of any loading or unloading operation, bunkering repairs or other operations when in his opinion such suspension is necessary to ensure the safety, health or welfare of the public.
- b. At the request of any other agency or department, the Port Manager or Harbor Master may order the suspension of operations upon a wharf to ensure the safety, health or welfare of the public, or for law enforcement purposes.

9.13 Handling of Goods on Wharf - Responsibility for Damaged Freight Due to Weather Conditions: It is the responsibility of shipping companies, owners and consignors to ensure that freight is adequately protected from weather damage while same is stored on wharves. This responsibility will include provision of adequate covering, closing of all openings such as outside doors, windows and inspection openings, and the placing of freight on pallets or dunnage so that it will not be damaged by moisture from the shad floors. The Port Authority shall not be responsible or liable for damaged freight due to inadequate weather protection.

9.14 No Landing of Items That Can Cause Damage: No goods or articles of any description which are likely to cause damage to property or injury to persons shall be landed, discharged or unloaded upon any wharf without the prior permission of the Harbor Master.

- 9.15 Rubbish, Ashes or Refuse on Wharves:** No person shall place or leave any ashes or rubbish on any wharf except in areas designated for that purpose, without the permission of the Harbor Master.
- 9.16 Objectionable Materials on Wharves:** No objectionable materials such as decaying or putrefying vegetable matter, manure, or bedding straw shall be left on any wharf. All such material shall be removed immediately.
- 9.17 Dead Animals on Wharves:** No dead animal shall be left on any wharf, in the waters or on the shores of any harbor or upon any reef adjacent to any such harbor without the permission of the Harbor Master.
- 9.18 Dead Animals in Water:** No dead animal shall be moved through the waters of any harbor without the consent to the Harbor Master.
- 9.19 Goods Unfit to Remain on Wharves:** Any freight which, in the opinion of the Harbor Master, is unfit to remain upon any wharf, or which may be harmful to other freight on such wharf shall, if necessary, be removed by the Harbor Master at the expense of the owner or consignee.
- 9.20 Rubbish, Swill, Garbage Placed in Harbor:** No rubbish, swill, garbage or refuse shall be thrown, washed overboard or placed in the Harbor or on any wharf.
- 9.21 Ballast, Etc., Landed on Shores of Harbor:** No ballast, rock, stone, slate, slag, gravel, sand, earth, cinders, rubbish, filth, garbage, or other noxious substance shall be deposited on any of the shores, property or facilities under the control of the Port Authority, unless approved by the Port Manager.
- 9.22 Ballast, Etc., Procedures For Landing:** When any ballast, rock, stone, sand, fertilizer, grain, or other loose material is being handled between a vessel and any wharf or

vise-versa, or between two vessels within any harbor, a canvas chute or other means satisfactory to the Harbor Master shall be used to prevent any part of the material being handled from falling into the Harbor or onto the wharf.

10.0 PRIVATE ACTIVITIES

10.1 Private Use of Port Authority Property and Facilities:

- a. **General Statement:** No use of any property or facility owned or controlled by the Port Authority for commercial or personal purposes is permitted, except as authorized by these Rules and Regulations.
- b. **Business Activities:** No person shall engage in any business or commercial activity (including commercial sub-leases) on Port Authority-owned or controlled property without the prior written approval of the Port Manager.

10.2 Non-Commercial Activities:

- a. The following activities are prohibited on or within any Port Authority property or facility if conducted by a person to or with passers-by in a continuous or repetitive manner:
 - i. The sale or distribution of any merchandise including, but not limited to, jewelry, food stuffs, candles, flowers, badges and clothing.
 - ii. The sale of flyers, brochures, pamphlets, books or any other printed or written material.
 - iii. The solicitation and receipt of funds.
 - iii. The sale of any service.
 - iv. The sale of any raffle ticket or entry in a game of chance.
 - vi. The conduct of a game of chance.
- b. The continuous or repetitive distribution of flyers, brochures, pamphlets, books or any other printed or written material is prohibited unless conducted pursuant to the following provisions of this rule:

- i. Each person distributing literature or any other material on behalf of himself or herself, another individual or an organization, must hold a valid leafleting permit and conduct the activity in conformity with applicable laws, regulations and terms of the permit. Each leafleting permit shall describe the material to be distributed and location where it may be distributed.
- ii. Each time a person enters Port Authority property or facilities to distribute literature pursuant to this rule, he or she must report his arrival to the Port Manager and sign in prior to distributing literature. If a leafleting permit has not been issued by the Port Manager pursuant to Section b(i) above, the person will not be permitted to distribute literature pursuant to this rule. Each time a person leaves the Port Authority property or facility, after distributing literature, he or she must report such departure to the Port Manager and sign out upon cessation of distribution of literature.
- iii. Permits for distribution of literature will be issued on a first-come, first-served basis. Each person distributing literature on behalf of an organization must display an identification badge that states the name of the organization or person represented. The badge will be worn on the upper left breast of the outermost garment and be clearly visible.
- iv. The distribution of literature pursuant to this rule is permitted only at the locations designated in Section c(vi) below. Access to these locations will be granted on a first-come, first-served basis each day upon request. No more than three representatives of a single organization or person are permitted to distribute literature at any one location at any one time.
- v. A table may be used in connection with the distribution of literature pursuant to this rule in the following manner only: Only one table, which may not exceed 52 inches in length and 30 inches in width, may be used at each location.
- v. The distribution of literature shall be conducted only between the hours of 10:00 A.M. to 5:00 P.M.

- vii. The Port Manager may prohibit the distribution of literature otherwise permitted by this rule in the event of a tropical storm or typhoon, vessel accident, vessel delay, power failure, transportation strike or other event or condition under which the distribution of literature in such space creates a danger to persons or property, interferes with the orderly formation and progression of waiting lines, or interferes with any of the following: pedestrian and/or vehicular travel; the issuance of tickets or boarding passes or equivalent documents for sea or ground transportation; luggage or cargo movement or handling; the entry to and exit from vessels or vehicles; security procedures; government inspection procedures; cleaning, maintenance, repair or construction operations.
- c. The sale of any written or printed matter and the solicitation of funds from the general public for non-commercial purposes (herein called "solicitation activities") are prohibited unless conducted outside the Administration Building and in full compliance with the following provisions of this rule:
 - i. Each person conducting a solicitation activity must hold a valid solicitation permit issued by the Port Manager and conduct the activity in conformity with applicable laws, regulations and the terms of the permit. Each solicitation permit shall describe the activity authorized and the area in which it may be conducted.
 - ii. Each person who seeks to engage in a solicitation activity on Port Authority property may do so only in connection with religious expression or as a representative of a non-commercial organization. Each such person shall immediately be given a single permit upon submission of an application, signed by the applicant, containing the following:
 - (1) The applicant's name, address and telephone number.
 - (2) The name, address and telephone number of the organization that the applicant represents, and a letter or other documentation that the applicant has authority to represent that organization

(submission of this document is not required of an individual who is not representing an organization).

- (3) The name and title of the person in the organization who will have supervision of and responsibility for the activity at the Port Authority, if applicable.
- (4) Statement that the sale of printed matter and/or the solicitation of funds is for a non-commercial purpose.
- (5) One of the following:
 - (a) A statement signed by the applicant that the applicant represents, and will be soliciting funds or selling written or printed matter for the sole benefit of, a religion or religious group.
 - (b) A statement signed by the applicant that the applicant represents, and will be soliciting funds or selling written or printed matter for the sole benefit of a political organization, a function of which is to influence the nomination, election, or appointment of one or more individuals to federal, state, or local public office; to influence federal, state, or local legislation; or to advocate issues or causes to the public.
 - (c) A statement signed by the applicant that the applicant's organization has received an official Internal Revenue Service (IRS) ruling or letter of determination stating that the organization or its parent organization qualifies for tax-exempt status under 26 U.S.C. 501(c)(3), (c)(4), or (c)(5).
 - (d) A statement signed by the applicant that the applicant's organization has applied to the IRS for a determination of tax-exempt status under 26 U.S.C. 501(c)(3), (c)(4), (c)(5), and that the IRS has not yet issued a final administrative ruling or determination on such status.

- (e) A statement signed by the applicant that the applicant's organization has on file with the Department of Revenue and Taxation, Government of Guam, a current registration statement in accordance with Section 651 et seq. of the Civil Code of Guam.
- iii. Failure to submit all the information required by paragraph (b) of this section shall result in denial of a solicitation permit. Upon submission of a completed and signed application, a solicitation permit shall be issued unless all available permits have been issued to prior applicants.
- iv. Applications for solicitation permits must be submitted to the Port Manager. Permits will be granted on a first-come, first-served basis. The areas will be assigned on a first-come, first-choice basis. The permits are not transferable except among individuals who have completed and submitted applications for the same permit.
- v. Each solicitation permit shall authorize the holder to conduct a fund-raising activity for a period of up to forty-eight (48) hours. Permits shall not be extended or renewed. After the expiration of the permit a new solicitation permit may be issued to the former permit holder upon request or submission of a new application respectively. In such a case, applicants may be permitted to incorporate by reference any required documentation filed with a previous application.
- vi. Each permit shall specify the area in which the solicitation activity may be conducted by the permit holder. Permits shall be issued for the following areas up to the maximum number indicated:
 - (1) The sidewalk in front of the main entrance and main exit of the Administration Building - - five (5) permits;
 - (2) The sidewalk in front of the entrance and exit to the Port Terminal - - five (5) permits.

(3) The sidewalk in front of the Board of Directors Office - - five (5) permits.

vi. Nothing in this part shall be construed as impairing or expanding any right which a Port Authority lessee may otherwise have, by virtue of its leasehold interest in Port Authority property or facilities, premises, to regulate access to those areas under its exclusive control.

vii.

10.3 Prohibited Conduct Relating to Non-Commercial Activity: No person may conduct any non-commercial activity within or outside a Port Authority building or facility:

- a. Without a permit or with a permit that has expired.
- b. With a permit issued upon an intentionally false application.
- c. With a permit outside the area designated on the permit.
- d. Within ten (10) feet of the following:
 - i. A security screening point,
 - ii. Premises leased for the exclusive use of a concessionaire,
 - iii. Restroom facilities,
 - iv. A stair, escalator or elevator,
 - v. A doorway or entrance way,
 - vi. A motor vehicle with embarking or disembarking passengers,
 - vii. A public service information counter,
 - viii. A food court or the area adjoining a food or beverage facility, and
 - ix. Persons waiting in line at any of the above listed areas.
- e. If a person representing the non-commercial organization is selling written or printed matter or soliciting funds without wearing or displaying, in a conspicuous manner, a solicitation permit and the name of the organization that the person represents.
- f. By intentionally touching or making physical contact with another person, or the vehicle by which the person is occupying, unless that other person has consented to such physical contact.
- g. By use of a loudspeaker, sound or voice amplifying apparatus.

- h. By setting up a table, counter or stand without the written permission of the Port Manager.
- i. By leaving any item unattended.
- j. By attaching any placard, sign, circular or other written material on any wall, post, counter, billboard or other surface.
- k. By performing any ceremony, speech, song, carrying of any sign or placard, or other such activity which constitutes a danger to persons or property, or which interferes with any of the following: the orderly formation and progression of waiting lines; passenger, pedestrian and/or vehicular travel; the issuance of tickets or boarding passes or equivalent documents for sea or ground transportation; luggage or cargo movement or handling; the entry to and exit from vehicles; security procedures; government inspection procedures; cleaning, maintenance, repair or construction operations.

11.00 HARBOR ACTIVITIES

- 11.1 Hazardous Floating Objects in Harbor:** Whenever the disposal, salvage or transportation of a derelict craft, vessel or other object of any size, type or description, might, if sunk, lost or abandoned in the harbors, channels, shores or waters of Guam become hazardous to navigation, to dredging or to other operations of the Guam or federal governments, or the public, the written permission of the Harbor Master shall be obtained before taking such action.
- 11.2 Sinking in Navigable or Off-Shore Waters:** No vessel or other object of any size, type or description shall be let lose, sunk, dropped or abandoned in or on the navigable waters or shores of Guam. In the event of such occurrence, the Harbor Master shall be immediately notified and the owner shall take such action as is necessary for removal of the object. If the owner fails to take action to remove the object, the Port Authority will take such actions as are necessary for such removal and will charge all costs incurred to the owner. The Harbor Master may require the posting of a bond to assure such payment.

11.3 Connecting Up of Vessels to Water Supply System:

- a. No person shall connect a vessel's water supply system, siphon or other water-operated device, equipment or mechanism to a potable water supply system, or operate any water-operated device, equipment or mechanism connected to the water supply system, unless an approved back flow prevention device has been installed at the faucet or other point of connection. An "approved backflow prevention device" means a backflow prevention device that meets the requirements contained in Standard 1001, American Society of Sanitary Engineers or the Uniform Plumbing Code adopted by the International Association of Plumbing and Mechanical Officials (IAPMO).
- b. No connection may be made from any vessel's water supply system to a dockside water supply system without the written permission of the Harbor Master.
- c. No potable water may be supplied from a dockside water supply outlet without the use of a water meter.

11.4 Dumping of Sinkable Materials: All dumping at sea of sinkable objects or material is prohibited, unless permitted by law. Letting loose of floating objects in the Harbor is strictly prohibited.

11.5 Dredging and Removal of Sand, Gravel, Rock, Etc. No dredging shall be performed, or any sand, gravel, coral, rock or top soil removed from any areas under the control of the Port Authority, without the written permission of the Port Manager.

11.6 Construction of Structures: No buildings or structures of any nature whatsoever shall be erected or constructed on Port Authority property, nor shall existing structures be modified, without obtaining the written permission of the Port Manager and the approval of any other governmental agency as required by law. In general, approval will be dependent on an agreement to return the property to its original state when vacating the property or premises if requested to do so by the Port Authority.

12.0 SMALL CRAFT

12.1 Small Craft Moorings:

- a. The Harbor Master may, consistent with applicable federal and Guam laws and regulations, establish and allocate berths and moorings for small craft in Apra Harbor.
- b. Priorities for berthing and mooring in Apra Harbor shall be as follows:
 - i. Commercial fishing boats, or boats hauling commercial fish cargoes;
 - ii. Charter boats;
 - iii. Other commercial craft; and
 - iv. Recreational craft.
- c. Berths shall be made available only when not required for large, commercial ocean-going vessels, or government owned/operated vessels, or for vessel for which prior long-term commitments have been made.
- d. Exceptions to the priorities in Section b. above may be made if the Port Manager or Harbor Master believes that it is in the best interests of public safety, health and welfare.
- e. No vessel shall make fast to, moor, dock, anchor at or lay alongside any Port Authority controlled pier, wharf, quay, bulkhead, landing, dolphin, mooring or other moored vessel or anchored vessel in areas under the control of the Port Authority without the prior authorization of the Harbor Master.
- f. Any such vessel may be removed by direction from the Harbor Master.
- g. Any costs incurred by the Port Authority in removing such vessels shall be for the account of the owner, master, agent, or operator of the vessel.
- h. Separate rules governing small craft use of, and navigation within, marinas, boat basins and other recreational boating facilities (i.e., Hagatna Boat Basin and Agat Small Boat Harbor) may be promulgated and should be consulted by the owners and operators of small craft in those facilities. In the event of any conflict between these Rules and Regulations and such separate rules, the latter shall govern the use of, and navigation within, those facilities.

- i. **Small Craft Mooring Permit/Request:** Any interested person, corporation, or other legal body may apply for a mooring permit by completing in full the application provided by the Harbor Master. In the case of a legal body, association, or other organized body, evidence of corporate existence and authority to submit that application shall be provided to the Harbor Master.
- j. **Issuance of a Mooring Permit:** A small craft mooring permit shall be issued on a first-come, first-served basis for a period not to exceed seventy-two (72) hours when (a) a completed application has been submitted, (b) an agreement has been executed, (c) an adequate berthing or mooring facility becomes available, (d) the vessel is in an operating condition and capable of operating beyond the confines of the harbor or other mooring facility on a regular basis, and (e) all required fees and charges have been paid.
- k. **Cancellation of Mooring Permits:** Mooring permits may be canceled for any of the following reasons: (a) the vessel berthed or moored is being used for illegal purposes, (b) the vessel constitutes a hazard to the Port Authority and/or vessels in the vicinity, (c) the permit has expired, (d) the vessel has been abandoned, (e) the vessel's owner, operator, charterer or lessee has been convicted of a crime relating to such vessel, or (f) violation of any federal or Guam laws or regulations by such vessel.

12.2 Waterskiing, Operation of Personal Watercraft, Parasailing and Windsurfing Prohibited in Certain Areas: The above activities are prohibited within one hundred feet (100') of the following areas: (a) any berth, wharf, fairway, pier or quay; (b) any bridge, (c) any beach or other area set aside for swimming or bathing; and (d) any other areas designated by the Port Manager to protect public safety, avoid hazards to navigation, or prevent interference with Port Authority operations.

12.3 Fishing Prohibited in Certain Areas: Catching of fish in the Harbor by any means or method is prohibited in the following areas: (a) all approaches to berths, wharves, channels, fairways, quays; (b) all berths where operations are in progress, such as the

commercial piers and wharves, or where dredging is taking place; (c) off any bridges; (d) at or near any beaches specifically set aside for swimming or bathing; (e) any other areas designated by order of the Port Manager to protect public safety, avoid hazards to navigation, or prevent interference with Port Authority operations.

12.4 No Consumption of Alcoholic Beverages: Alcohol consumption in any facility under the jurisdiction of the Port Authority is strictly prohibited.

- a. Persons under the influence of alcohol or controlled substances are prohibited from entering into any wharves, piers, sheds, roads, or open areas owned or controlled by the Port Authority.
- b. The Port Authority specifically and categorically disclaims any liability for any accident incurred by persons under the influence of alcohol or controlled substances.
- c. Any damage to property and facilities owned or under the control of the Port Authority caused by persons under the influence of alcohol or controlled substances shall be repaired or replaced by the Port Authority, and will charge all costs incurred to the person responsible.

12.5 Safe Navigation in Apra Harbor: Recreational vessels operating in the Harbor shall adhere to the following Standards of Care to ensure safe operation:

- a. Ensure vessel is safe before getting underway.
- b. Ensure vessel is seaworthy.
- c. Keep flares and distress calling equipment readily accessible.
- d. Be extra careful in bad weather.
- e. Avoid passing large vessels close aboard. Recreational vessel operators need to be aware that large vessels are severely limited in their ability to stop or alter course; that they are limited in their ability to sight small vessels due to blind spots that may extend more than one-half mile ahead; and that they cannot easily avoid a collision with a smaller recreational vessel.
- f. Pass tugs with caution.

- g. Know where the traffic lanes, fairways and the regulated navigational areas are located.
- h. Know how and when to monitor VHF channels 13, 14 and 16.
- i. Know your vessel's position at all times.
- j. Be an informed mariner:
 - Learn the maritime "Rules of the Road"
 - Read Coast Guard notices to mariners
 - Monitor the weather and weather forecasts
 - Listen to channel 16 for Coast Guard broadcasts.



THE OFFICE OF
Senator Felix P. Camacho
TWENTY-SIXTH GUAM LEGISLATURE

Public Hearing
10 a.m. Wednesday, October 3, 2001

AGENDA

- I. Call to Order
- II. Announcement and Introduction of Members
- III. Confirmation Hearings:
 - Martin Gerber to the Guam International Airport Authority's Board of Directors
 - Confirmation of Paul H. Cepeda to the Port Authority of Guam's Board of Directors.
- IV. Port Authority of Guam's Harbor Rules and Regulations
- V. Bill 160: An Act to Amend §22958 of Article 10, Chapter 22 of Title 5 of the Guam Code Annotated, and "Exhibit B" Added in Public Law 24-11, Relative to Supporting our Visitor Industry by Revitalizing Southern Tumon Bay
- VI. Bill 193: An Act to Amend Section 2 of Public Law 24-221, Relative to the Terms and Conditions of the Issuance of General Revenue Bonds by the A.B. WonPat Guam International Airport Authority.
- VII. Remarks
- VIII. Adjournment



THE OFFICE OF
Senator

Felix P. Camacho

TWENTY-SIXTH GUAM LEGISLATURE

Suite 15B • 777 Route 4 • Sinajana, Guam 96926 • Phones 1.671 472-3544 / 45 / 46 • Fax 1.671 472-3534

TESTIMONY SIGN-IN SHEET

COMMITTEE ON TOURISM, TRANSPORTATION
AND ECONOMIC DEVELOPMENT

Port Authority of Guam's Proposed Harbor Rules and Regulations

NAME: <i>FRANK P. CAMACHO</i>	ORGANIZATION: <i>PORT AUTH OF GUAM</i>
CONTACT: <i>477-1588</i>	MAILING ADDRESS:
NAME: <i>FRANK SANTOS</i>	ORGANIZATION: <i>PHS HARBOR MASTER</i>
CONTACT: <i>477-8057</i>	MAILING ADDRESS:
NAME: <i>Guam Sailing Federation c/o Vic Torres</i>	ORGANIZATION: <i>Guam Sailing Federation</i>
CONTACT: <i>Mona Rekdahl 472-8118 or Cathleen Moore-Lynn</i>	MAILING ADDRESS: <i>735-5638</i>
NAME:	ORGANIZATION:
CONTACT:	MAILING ADDRESS:
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NAME:	ORGANIZATION:
CONTACT:	MAILING ADDRESS:



Carl T. C. Gutierrez
Governor of Guam

Madeleine Z. Bordallo
Lieutenant Governor

PORT AUTHORITY OF GUAM
ATURIDAT I PUETTON GUAHAN
GOVERNMENT OF GUAM
1026 Cabras Highway
Suite 201
Piti, Guam 96925



PORT AUTHORITY OF GUAM

Telephone: (671) 477-5931/35
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**TESTIMONY ON THE HARBOR RULES AND REGULATIONS FOR THE
PORT AUTHORITY OF GUAM**

By Francisco P. Camacho, General Manager
Before the Committee on Tourism, Transportation & Economic Development
Wednesday, October 3, 2001

GOOD MORNING CHAIRMAN CAMACHO AND MEMBERS OF COMMITTEE. MY NAME IS FRANCISCO P. CAMACHO AND I AM THE GENERAL MANAGER OF THE PORT AUTHORITY OF GUAM. THANK YOU FOR THE OPPORTUNITY TO TESTIFY THIS MORNING ON THE PORT AUTHORITY OF GUAM'S HARBOR RULES AND REGULATIONS.

THESE RULES AND REGULATIONS UNDERWENT AN EXTENSIVE PUBLIC HEARING PROCESS MORE THAN A YEAR AGO UNDER THE ADMINISTRATIVE ADJUDICATION ACT. THE PORT AUTHORITY, THE U.S. COAST GUARD AND ALL OF THE SHIPPING COMMUNITY MET SEVERAL TIMES TO ADDRESS CONCERNS IN THE CURRENT RULES AND REGULATIONS.

THESE NEW AND UPDATED RULES AND REGULATIONS ARE THE CULMINATION OF THOSE EFFORTS. THE FINAL PRODUCT IS THE RESULT OF LONG HOURS OF COMPILING THE INPUTS OF ALL OF THE CONCERNED PARTIES WHO UTILIZE THE PORT. WE ARE CONFIDENT THAT THIS FINAL VERSION IS IN THE BEST INTEREST OF THE PEOPLE OF GUAM AND THE SHIPPING COMMUNITY.



Commonwealth Now!

THE PRIMARY REASON FOR THE REWORKING OF OUR EXISTING HARBOR RULES AND REGULATIONS CAME ABOUT AFTER THE U.S. COAST GUARD SUGGESTED GUAM UPDATE ITS COMPULSORY PILOTAGE LAWS TO CONFORM WITH U.S. FEDERAL GUIDELINES. THIS WAS DONE IN THE 25TH GUAM LEGISLATURE WITH THE PASSAGE OF PUBLIC LAW 25-09, "THE COMPULSORY PILOTAGE ACT OF 1999."

THAT LAW MANDATED THAT "THE BOARD OF DIRECTORS OF THE PORT AUTHORITY OF GUAM SHALL ADOPT RULES AND REGULATIONS ESTABLISHING CREDENTIALING CRITERIA FOR AND GOVERNING THE CONDUCT OF PILOTS. IN ADDITION TO CREDENTIALING CRITERIA AND STANDARDS OF PROFESSIONAL CONDUCT, SUCH RULES AND REGULATIONS SHALL, AT A MINIMUM, SET FORTH THE PROCEDURES FOR FILING AND PROCESSING LICENSE APPLICATIONS AND FOR INVESTIGATING AND RESOLVING COMPLAINTS AGAINST PILOTS, AS WELL AS THE GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF A PILOT'S LICENSE...." IT ALSO DIRECTED THE AUTHORITY TO ESTABLISH FEES FOR THE PILOT LICENSES.

SECTION 6.11 OF OUR NEW RULES AND REGULATIONS ADDRESSES ALL OF THESE MANDATES. IT SETS OUT THE CRITERIA FOR OBTAINING A GUAM PILOTS LICENSE AND THE TERM OF THE LICENSE. THE FEE FOR A FIVE-YEAR LICENSE IS \$100.

Testimony on the Port Harbor Rules and Regulations

Page 3

October 3, 2001

THE HARBOR RULES AND REGULATIONS ALSO SPELLS OUT THE FORMATION OF THE PILOT REVIEW BOARD, WHICH WILL BE APPOINTED BY THE GENERAL MANAGER ONCE THEY ARE ENACTED. THE BOARD WILL BE COMPOSED OF THE HARBOR MASTER, WHO SHALL SERVE AS ITS

CHAIRPERSON, AN ASSISTANT HARBOR MASTER, THREE LICENSED HARBOR PILOTS (NOT MORE THAN TWO EMPLOYED BY THE SAME COMPANY), AND TWO MEMBERS REPRESENTING THE SHIPPING INDUSTRY. EACH MEMBER, EXCEPT FOR THE HARBOR MASTER AND THE ASSISTANT HARBOR MASTER, SHALL SERVE FOR A TERM OF TWO YEARS OR UNTIL REPLACED, AS PROVIDED BY PUBLIC LAW 25-09.

THE PURPOSE OF THE PILOT LICENSE REVIEW BOARD IS TO REVIEW AND RECOMMEND APPROPRIATE DISPOSITION OF COMPLAINTS AND OTHER DISCIPLINARY ACTION AGAINST A HARBOR PILOT TO THE PORT MANAGER AND THE PORT AUTHORITY BOARD OF DIRECTORS. NO PILOT'S LICENSE SHALL BE SUSPENDED OR REVOKED, OR ANY DISCIPLINARY ACTION TAKEN, UNLESS SUCH ACTION HAS BEEN REVIEWED BY A MAJORITY OF THE MEMBERS OF THE PILOT LICENSE REVIEW BOARD, OR THIRTY DAYS HAVE PASSED FROM SUBMITTAL OF THE MATTER FOR SUCH REVIEW. THE PORT MANAGER AND THE PORT AUTHORITY BOARD OF DIRECTORS SHALL CONSIDER THE RECOMMENDATIONS OF THE PILOT LICENSE REVIEW BOARD PRIOR TO IMPLEMENTING DISCIPLINARY ACTION.

Testimony on the Port Harbor Rules and Regulations

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October 3, 2001

OUR BOARD OF DIRECTORS ADOPTED THESE NEW RULES AND REGULATIONS IN JUNE OF LAST YEAR AFTER SEVERAL PUBLIC HEARINGS AND WORKING SESSIONS. WE URGE YOUR PASSAGE OF THESE RULES AND REGULATIONS AS SOON AS POSSIBLE SO WE CAN INFORM THE COAST GUARD THAT WE HAVE COMPLIED WITH THE FEDERAL PILOTAGE GUIDELINES.

THANK YOU FOR ALLOWING ME TO TESTIFY IN FAVOR OF THE PASSAGE OF THESE RULES AND REGULATIONS AND WE LOOK FORWARD TO YOUR FAVORABLE ACTION.



FRANCISCO P. CAMACHO

Guam Sailing Federation
c/o Primo Surf
P.O. Box 788 Hagatna, Guam 96932

Senator Felix Camacho
Chairman
Committee on Tourism, Transportation and Economic Development

Subject: Testimony on the Port Authority of Guam amended Harbor Rules

Dear Chairman:

The Bailan Tasi Boardsailing Fleet, member of the Guam Sailing Federation submits this testimony on the Port Authority of Guam's Proposed Amended Harbor Rules.

For the most part we have no objections to the proposed amended rules. However, we believe that Section 12.2 will adverse effects on the sport of windsurfing. In fact some of the Port Authorities landside public access policies have already had an adverse effect on the sport. That is another issue that we hope to resolve with the Port.

Section 12.2 prohibits water skiing, operation of personal water craft, parasailing and windsurfing within 100 feet of the following areas: a) any berth, wharf, pier or quay; b) any bridge; c) any beach or other area set aside for swimming or bathing; and d) any other areas designated by the Port Manager to protect public safety, avoid hazards to navigation, or to prevent interference with Port Authority operation.

First of all let it be known that there has been windsurfing in Apra Harbor for probably the past 15-20 years. This has included windsurfing by individuals to competition such as the 1999 South Pacific Games. To my knowledge in those 15-20 years I do not know of any incidents where windsurfers could have been a hazard to navigation or interfered with the Ports operations. Of course there may have been a few in such a time period however they may have been minor in nature.

What the Port is proposing here would deny windsurfers to fairly large areas of the Port. For example with regards to restricting access to fairways. This fairway is supposed to be from the main entrance of the harbor to markers demarcating the entrance to the commercial port where most of the Port operation occur. This fairway basically splits the harbor in half. Does this mean

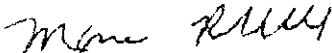
windsurfers cannot cross the harbor as we have for 15-20 years. Most of the time this area is without any vessel traffic. We can see vessels, especially large ones coming or going from the harbor through this fairway. However, it appears that most of the vessels that use this fairway are smaller vessels such as Fishing long liners. The term fairway should be struck from this section. As for wharfs, most windsurfers do not even want to venture anywhere near the inner wharfs of the Commercial Port due to the dirty waters and disturbed wind. Which is why we frequent the outer Apra Harbor. We fell the term windsurfers should be struck period from Section 12.2.

We can understand trying to regulate certain activities however the Port must also consider that there are Navigation Rules put out by the U.S. Department of Transportation that governs the conduct of vessels on the water. For most, if not all, situations these rules are all that is necessary for safe navigation of all types of vessels, including windsurfers, within the waters of Apra Harbor.

It is disturbing that the Port is moving to unfairly restrict windsurfers here on Guam in one of the best protected locations for this sporting activity. In other locations such as Maui and San Francisco windsurfers can be seen right out of the airfields and are seen as a viable component of the tourism industry. We need to encourage and develop or enhance areas that recreational activities such as windsurfing can be enjoyed by the local population as well as tourists.

We do believe that this section is unfairly targeting the windsurfers, and the very low incidence of any incidents or interference with Port operations does not justify such restriction. We would like to work together with the Port and the Legislative Committee on Tourism, Transportation and Economic Development

Mona Rekdahl
President, Guam Sailing Federation



ATTN:

PRIMO SURF GUAM

4774345

P. 01

FRANCISCO P.
CAMACHO,
PAGE

Guam Sailing Federation
c/o Primo Surf
P.O. Box 788 Hagatna, Guam 96932

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November 1, 2001

Frank Santos
Harbor Master
Port Authority of Guam

Dear Mr. Santos we recommend the following changes to Rule 12.2 of the Port Authority of Guam Amended harbor Rules and Regulations. We believe the following changes reflect the differences between the operations of waterskiing and parasailing from the operations of windsurfing and personal water craft. First of all both waterskiing and parasailing involve towing of persons and at times equipment. These operations limit the maneuverability of the craft. Operating normally, a windsurfer or personal watercraft is not restricted in its ability to maneuver and can abide by the navigation rules to give right-of-way to other vessels.

12.2 Waterskiing, Operation of Personal Watercraft, Parasailing and Windsurfing

Prohibited in Certain Areas: The activities of Waterskiing and Parasailing are prohibited within one hundred feet (100') of the following areas : (a) any berth, wharf, fairway, pier or quay; (b) any bridge, (c) any beach or other area set aside for swimming or bathing; and any other areas designated by the Port Manager to protect public safety, avoid hazards to navigation, or to prevent interference with Port Authority operations.

The operations of personal watercraft and windsurfers are subject to the Navigation Rules put out by the U.S. Department of Transportation and must be operated in

accordance with these rules. This especially so with regards to appropriate safe speed and rights-of-way when operating in close proximity to any berths, wharfs, fairways, piers, or quays. Personal watercraft and windsurfers shall: (a) operate at no wake speed when in close proximity to wharfs, or berths; (b) be allowed to operate within an area designated for swimming or bathing only to egress to/from the shoreline to the waters of outer Apra Harbor. They shall do so at a safe speed; (c) be allowed to operate within an area designated as a fairway when crossing and when such operation does not impede any vessel who is utilizing the fairway, especially if the vessel is restricted in its ability to maneuver.

We welcome your comments on our recommendations. We do believe such changes in rule 12.2 will make enforcement easier for the Port since it clarifies certain areas that are not specific but still allow for recreational enjoyment of the harbor waters by a segment of the boating public.

Sincerely,

Victor Torres

Vice President, Guam Sailing Federation

FSC 433, Box 176
 Phone: (671)339-2001 x4
 FPO AP 96340-1056
 Fax: (671)339-2005

FAX TRANSMITTAL		# of pgs.
To VICTOR TOZPAS	From LT FRED MATHIAS	
Dept/Agency	Phone # 339-2001 EXT 163	
Fax #	Fax #	

ion reporting: (671) 339-6100/7100

NSN 7540-01-317-7568 6040-101 GENERAL SERVICES ADMINISTRATION

BACK COVER SHEET

To: Vessel Agents/Shipping Companies/Harbor-Master/Guam Customs/I.N.S./Cabras Pilots/Dive Shops/Guam Port Authority/CNMI Port Authority	Date Sent: October 15, 2001
Company: All Vessel Agents	Fax #:
From: U.S. Coast Guard Marine Safety Office, Guam	Total Pages: 2
SUBJECT: Captain of the Port Regulatory Update	

To Maritime Community Members,


The U.S. Coast Guard is enforcing a wide range of security measures on all ships entering U.S. ports. Vessels required to provide advance notice of arrival information must now provide crew and passenger lists for all persons on board, (including Place of Birth) regardless of the nationality of crew/passengers or the flag of the vessel. Vessels carrying hazardous cargoes must provide the dangerous cargo manifest for those commodities. In addition to these nationwide measures, each Coast Guard Captain of the Port may employ additional security measures deemed necessary, to ensure the safety and security of their port. The following list provides items which Coast Guard Captain of the Port Guam has deemed necessary for the appropriate level of security for the ports of Guam and Saipan. Shipping agents and operators should work closely with the Coast Guard Captain of the Port Guam to comply with the items and reduce the possibility of any shipping delays.

- **Naval Vessel Protection Zones:** The protection zones, which regulate maritime vessel traffic in the vicinity of U.S. Naval vessels operating in navigable waters of the United States, have been established by a temporary final rule under the authority contained in 14 United States Code 91. The Naval Vessel Protection Zones were established on September 14, 2001 and will remain in effect through June 15, 2002. Specifically: 1) All vessels within 500 yards of a U.S. Naval vessel must operate at a minimum speed necessary to maintain a safe course and must proceed as directed by an official patrol. 2) Vessels are not allowed within 100 yards of a U.S. Naval vessel, unless authorized by the official patrol. 3) Vessels requesting to pass within 100 yards of a U.S. naval vessel must contact the official patrol on VHF-FM channel 16. A U.S. Naval vessel is any vessel owned, operated, chartered or leased by the U.S. Navy; any vessel under the operational control of the U.S. Navy or a unified commander. **Note:** For more information please visit our website at: www.uscg.mil/d14.
- **Bunkering Operations:** Bunkering operations are hereby approved providing that the total amount of the fuel transferred does not exceed 10,500 gallons. The requirement of providing four hour advance notice for bunkering operations remains in effect. Requests for bunkering operations greater than 10,500 gallons shall be submitted to the U.S. Coast Guard Marine Safety Office (671) 339-2005; Attn: LT James Borders Jr. or (670) 236-2968; Attn: LT Ken Bryan.
- **Hazardous Materials:** The U.S. Coast Guard has identified these following items as hazardous cargoes of significant risk and the local Coast Guard may impose appropriate security measures to ensure safe

Liquefied Natural Gas (LNG); Liquefied Petroleum Gas (LPG); Chlorine; Anhydrous Ammonia; Ethylamine; Methylamine; Vinyl Chloride Monomer; Hydrogen Fluoride; and Hydrogen Peroxide (concentrated).

- **96 Hour Advance Notice of Arrival Rule Change:** A temporary final rule amending the Advance Notice of Arrival requirement was put into effect on October 4, 2001. The Coast Guard modified 33 C.F.R. Part 160 and has established a new central Coast Guard reporting center (The National Vessel Movement Center: NVMC) to serve as the central reporting location for all "Notices of Arrivals". The newly established NVMC will be fully operational beginning October 15, 2001. *Note: For more information please visit our website at: www.nvmc.uscg.gov.* Agents must provide 96 hour "Notice of Arrivals" to the NVMC for the following vessels: 1) Vessels of greater than 300 GT with a voyage time of 96 hours or greater shall provide a Notice of Arrival **96 hours** prior to entering the Port of (Guam/Saipan). 2) All vessels carrying dangerous cargo, except barges, with a voyage time of 96 hours or greater shall provide a Notice of Arrival **96 hours** prior to entering the Port of (Guam/Saipan). In addition to civil penalties, failure to comply with the 96 hour requirement could result in ship delays or denial of entry.
- **Dive Shops:** All dive shops conducting business within the waters of Apra Harbor should be aware and shall use extreme caution due to the increased on-water activity associated with enhanced U.S. Coast Guard and U.S. Naval floating patrol presence.

Thanks much for your cooperation. If you have any questions, please contact LT James Borders Jr. at (671) 339-2001, ext. 164 or by fax (671) 339-2005 or email jborders@d14.uscg.mil.


R.C. LORIGAN
Captain, U.S. Coast Guard
Captain of the Port Guam

Guam Sailing Federation
c/o Primo Surf
P.O. Box 788 Hagatna, Guam 96932

November 13, 2001

Frank Camacho
General Manager
Port Authority of Guam

Attention: Mr. Frank Santos, Harbor Master

Subject: Comments on Proposed Amendment to Harbor Rules

The Guam Sailing Federation has the following comments with regards to Proposed Amended Rules, specifically proposed rule 12.2. First, of all, we understand and agree with the Port on the restrictions as applied to both waterskiing and parasailing. These activities involve towing of persons and equipment and these types of activities limit the maneuverability of their crafts. However, we do disagree with the restrictions placed on windsurfers and personal watercraft.

Second, in contrast to waterskiing and parasailing, a windsurfer or personal watercraft operating normally is not restricted in its ability to maneuver and can abide by the navigation rules as put out by the Department of Transportation. Such rules address the conduct of vessels in most situations. This includes operation in fairways or traffic lanes, safe speed, risks of collision and action to avoid such, overtaking, crossing, appropriate sound and light signals, etc. We believe that these rules can address most of the situations that proposed rule 12.2 appears intended to remedy. However, we believe that rule 12.2 is overly restrictive in certain aspects toward windsurfers and personal watercraft users.

For the most part windsurfers, and to my knowledge personal watercraft users, stay away at least 100 feet from the majority of wharfs, especially wharfs' F through E surrounding the Cabras Island Channel. In fact, windsurfers don't even like to go through the waters of the Cabras Island Channel because they are polluted and the winds are disturbed. This is not a combination that windsurfers enjoy. The only wharf we usually come closest to is Wharf Hotel and then it is normally not that close.

However, to restrict windsurfers 100 feet from "piers" such as the Dogleg Pier area west of Family Beach and from "Fairways" seems unreasonable. Windsurfers have frequented Family Beach and Dogleg Pier for around 20 or so years and have crossed the main fairway

or channel countless times during those years without any serious incidents that we are aware of. The Outer Apra Harbor is not a very busy with vessel traffic and it is fairly protected from the effects of the open ocean. These are some of the reasons Apra Harbor is considered the safest and best spot on island for sailing and windsurfing. These are also some of the reasons we elected to hold the 1999 South Pacific Games sailing/windsurfing competition in Apra Harbor waters. During that time the Family Beach/Dogleg Pier area served as the secondary staging area. In fact, the Port Authority of Guam was a very good supporter and partner in preparation for the sailing competitions. We could not have done what we did without the Port Authority's support. Therefore we are puzzled by these rules that seem to target our sport of windsurfing.

Will we be restricted from Family Beach also? If it becomes a designated swimming area it can happen (proposed rule 12.2 (c)). Or the Port can do so if it deems windsurfing as a hazard to navigation (proposed rule d). In fact, windsurfers are already being kept from the land side access by the Port. However, though windsurfers are being kept out of the Family Beach/Dogleg Pier area and are being targeted in these proposed rules, the personal watercraft operations of Tour vendors continue to operate in the area of Family Beach/Dogleg Pier. This access to the Family Beach/Dogleg Pier is also another issue that we would also like to discuss with the Port, though we will leave it for another letter to the Port since we do not want to confuse the subject here.

Also, we do not see mention of any other type of crafts being restricted. Why is it only windsurfers and personal watercrafts are the only types of "crafts" being restricted? Aren't the operations of other small crafts in close proximity to wharfs a danger to Port operations as well? Why not kayaks, canoes, or rowboats?

The Guam Sailing Federation recommends the following changes to Rule 12.2 of the Port Authority of Guam Amended Harbor Rules and Regulations.

- 12.2 Waterskiing, Operation of Personal Watercraft, Parasailing and Windsurfing Prohibited in Certain Areas: The activities of Waterskiing and Parasailing are prohibited within one hundred feet (100') of the following areas : (a) any berth, wharf, fairway, pier or quay; (b) any bridge, (c) any beach or other area set aside for swimming or bathing; and (d) any other areas designated by the Port Manager to protect public safety, avoid hazards to navigation, or to prevent interference with Port Authority operations.

Personal watercraft and windsurfers must be operated in accordance with the Navigation Rules put out by the U.S. Department of Transportation, United States Coast Guard. This especially so with regards to rights-of-way and safe speed when operating in close proximity to any berths, wharfs, fairways, piers, or quays. Personal watercraft and windsurfers shall: (a) Not operate closer than 50 feet to wharfs. If forced to do so they shall leave the area soon as reasonably possible; (b) Be allowed to operate within an area designated for swimming or bathing only to

egress to/from the shoreline to waters outside of the designated swimming area. They shall do so only at a "no wake" speed and avoid people utilizing the swimming area; (c) be allowed to operate within an area designated as a channel or fairway if using such fairway as a traffic lane or when crossing. In accordance with the Navigation Rules, such operation should not impede any vessel who is utilizing the fairway, especially a vessel restricted in its ability to maneuver.

We welcome your comments on our recommendations. We do believe such changes in rule 12.2 will make enforcement easier for the Port Police or any enforcement arm since it clarifies certain areas that are not specific yet it still allows for recreational enjoyment of the harbor waters by the members of the boating public.

Sincerely,



Mona Rekdahl

President, Guam Sailing Federation

cc: Senator Felix Camacho

Howard takes big lead in polls

CANBERRA (Reuters) — The by New Caledonia's pro-independence parties' umbrella FLNKS, or the Kanak Socialist National Liberation Front.

rorism and the summit was postponed. The National... maybe naively, that this was possible, but apparently it is not," she added.

firm backing of any U.S. military action after the aircraft attacks on New York and Washington, Niue Hotel.

According to TV Niue News, the government hastily withdrew

sticking out of his back pocket. An ACNielsen poll of 2,070 people in The Sydney Morning

But according to TV news reports, shareholder Toke Talagi, a

government celebrations on Oct 16.


Flosse: Prices still stable

PAPE'ETE (Pacnews) — French Polynesia's President Gaston Flosse, while opening the budget session of the Territorial Assembly, said price of goods in the French territory had never been stable for so long, RFO reports.

During the opening session speech, Flosse also noted prices had increased by 1.1 percent in average for the past four years.

The speech was also the opportunity to announce the introduction of a value added tax, which will be applied at different rates according to the goods and services categories concerned.

Other new taxes will be imposed on sugar, in order to finance a new health prevention fund, on all imports for an environment fund, and on all new cars purchase of roads upgrade.



A.B. Won Pat Guam International Airport Authority
 (AJUR DAT PUEITION BAKON A'AREN ENTERNASIONAT GUAHAN)
 P.O. Box 8770, Tamuning, Guam 96931 - Telephone: (671) 646-0300/1/2

The Honorable Carl T.C. Gutierrez, Governor of Guam The Honorable Madeleine Z. Bordallo, Lt. Governor of Guam

NOTICE TO SOLICIT INTEREST

INDEPENDENT POWER PRODUCER


The A.B. Won Pat Guam International Airport Authority (GIAA), a public corporation and an autonomous instrumentality of the Government of Guam, hereby solicits letters of interest from interested and qualified firms to design, build and operate self-sustaining base load generator(s) to the GIAA Air Terminal and surrounding GIAA properties.

All interested parties shall submit a **"STATEMENT OF INTEREST"** addressed to the Executive Manager, at the GIAA Administration Office, Monday through Friday (excluding holidays) between 8:00 a.m. and 5:00 p.m., or send to the following address:

A.B. Won Pat Guam International Airport Authority
 Attention: Executive Manager
 P.O. Box 8770, Tamuning, Guam 96931
 Tel. No.: (671) 646-0325/6
 Fax No.: (671) 642-8827

Deadline for submission is **4:00 p.m., Friday, October 12, 2001**. For additional information, contact Mr. Marc Gagarin, P.E, GIAA Chief Engineer at (671) 642-4437/8 or Fax (671) 642-4407.

/s/GERALD P. YINGLING
Executive Manager
/s/JOSEPH L. CABANA
Acting Deputy Executive Manager



MINA' BENTE SAIS NA LIHESLATURAN GUAHAN
 SENATOR FELIX P. CAMACHO

NOTICE OF PUBLIC HEARING

The Committee on Tourism, Transportation and Economic Development will hold a public hearing at 10 a.m., Wednesday, October 3, at the Legislature's Public Hearing Room. The Committee will hear testimony on:


1. The Port Authority of Guam's Harbor Rules and Regulations;
2. The confirmation of Martin Gerber to the Guam International Airport Authority Board of Directors;
3. Bill 160, Relative to revitalizing Southern Tumoh Bay; and
4. Bill 193, Relative to the issuance of bonds by the Guam International Airport Authority;
5. The confirmation of Paul H. Cepeda to the Port Authority Board of Directors.

Those with disabilities who need special accommodations should call Bernadette Meno at 472-3544.

MINA BENTE' SAIS NA LIHESLATURAN GUÅHAN
2001 FIRST REGULAR SESSION

Bill No. 159 (COR)

Introduced by:

F. P. Camacho 

**AN ACT TO ADOPT THE HARBOR RULES AND
REGULATIONS OF THE PORT AUTHORITY OF
GUAM**

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the Port Authority of Guam's Harbor Regulations were last updated and
4 approved in 1978. Though those rules have served the island for more than 23
5 years, *I Liheslaturan Guåhan* finds that the rules and regulations should be updated
6 to reflect the changes that have occurred during this time period. After conducting
7 three public hearings on the rules, which were amended primarily to refine the
8 older regulations and to reflect changes in local and federal laws and maritime
9 management practices, the Port Authority of Guam's Board of Directors
10 approved an updated version of the rules and regulations on June 9, 2000. *I*
11 *Liheslaturan Guåhan* finds that these rules and regulations should be approved.

12 **Section 2. Approval of Harbor Rules and Regulations of the Port**
13 **Authority of Guam.** The Harbor Rules and Regulations for the Port Authority of
14 Guam ("the authority") that were adopted by the Board of Directors for the
15 authority on June 9 2000, are hereby approved. These rules and regulations are
16 attached and incorporated herein.

1 Changes to these rules and regulations shall be made in accordance with
2 §10105 of Title 21, Guam Code Annotated and the Administrative Adjudication
3 Law.

4 **Section 3. Severability.** *If* any provision of this Law or its application
5 to any person or circumstance is found to be invalid or contrary to law, such
6 invalidity shall *not* affect other provisions or applications of this Law which can
7 be given effect without the invalid provisions or application, and to this end the
8 provisions of this Law are severable.

**AMENDED HARBOR RULES AND REGULATIONS
OF THE
PORT AUTHORITY OF GUAM**

**Adopted by the Board of Directors of the
Port Authority of Guam on
June 9, 2000**

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1.0 ADMINISTRATIVE PROVISIONS

- 1.1 Authority:** The mission of the Port Authority of Guam (Port Authority), a public corporation and autonomous instrumentality of the Government of Guam, is to provide for the general needs of ocean commerce, shipping, recreational and commercial boating, and navigation in all territorial waters. 12 G.C.A. § 10102. PORT AUTHORITY is responsible for operating, maintaining and regulating the use of, and navigation within, portions of Apra Harbor, the Port of Guam, Hagatna Boat Basin, Agat Marina and all other public ports, harbors, boat basins and recreational boating facilities in Guam (ref. 12 G.C.A. §10101(c)).
- 1.2 Purpose:** These Harbor Rules & Regulations, promulgated pursuant to Title 12, Section 10105(g) and (h), Guam Code Annotated, are intended to provide for the effective management and operation, as well as safe and efficient use of, and navigation within, all public ports, harbors, boat basins and recreational boating facilities in Guam, and should be liberally construed to achieve those purposes.
- 1.3 Scope; Other Laws and Regulations:** All vessels making any use of, or navigating within, Apra Harbor or any other public port, harbor, boat basin or recreational boating facility for which no separate rules and regulations have been adopted by the Authority, shall comply with, and be governed by, these Rules and Regulations. In addition, such vessels shall at all times conform to the following:
- a. U.S. Coast Guard Regulations (33 C.F.R. Parts 1-199; 46 C.F.R. Parts 1-499);
 - b. Research and Special Programs Administration Regulations (49 C.F.R. Parts 100-185);
 - c. Federal Communications Commission Regulations (47 C.F.R. Part 80);
 - d. Territorial Boating Act (10 G.C.A. Chapt. 69);
 - e. Recreational Water Use Management Plan (21 G.C.A. §77119(f));

- f. Motorized Recreational Water Craft Regulations (Public Law 23-89);
- g. Coral and Fish Conservation (5 G.C.A. §63127);
- h. Fishing Regulations/Restrictions (5 G.C.A. §§63101-63609);
- i. Harvesting of Coral (5 G.C.A. §63602);
- j. Environmental Protection (40 C.F.R. 1-1517; 10 G.C.A. §47101);
- k. Compulsory Pilotage Act of 1999 (Public Law 25-09)
- l. All other applicable U.S. and Guam laws and regulations.

1.4 Non-Discrimination Policy: All services performed and activities conducted on property owned or controlled by the Port Authority of Guam shall be performed and conducted without discrimination or segregation against any individual regardless of their race, creed, gender or national origin. Violation of this policy shall constitute good cause for termination of any lease, concession, right, privilege, license, permit or other interest held by the violator.

1.5 Interpretation: If any provision of these Rules and Regulations is inconsistent with any law of the United States or any rule or standard established pursuant thereto, such provision shall be construed, superseded, or governed thereby. Nothing contained in these rules shall be construed to limit the powers of any United States or Government of Guam agency or officer.

1.6 Severability: The provision of these Rules and Regulations are declared to be severable and if any portion, or the application thereof, to any person or property is held invalid for any reason, the validity of the remainder of these rules, or the application of such remainder to other persons or property, shall not be affected.

1.7 Civil Penalties: Any person who violates any of these Rules and Regulations, or who fails to perform any duty imposed thereby, or to comply with any lawful order of the Port Manager, Harbor Master or Dock Master, while in the discharge of that officer's duties, shall be guilty of a misdemeanor. In addition, such person shall be subject to a

civil penalty not to exceed the sum of five thousand dollars (\$5,000) for each violation. The amount of each penalty shall be determined by the Harbor Master, in his discretion, subject to appeals first to the Port Manager and then to Board of Directors. The amount of each penalty shall be determined based on the gravity of the infraction, number of prior violations, extent of injury to persons or damage to property, and the violator's cooperation and willingness to comply with these Rules and Regulations. In addition to any penalty assessed, or as a condition to the suspension of any penalty, the offender may be deprived of the privilege of using any port, harbor or marina facility for a period of not more than two (2) years. All penalties shall be paid to the Port Authority.

1.8 Procedure for Assessment of Penalties: All complaints shall be in writing, signed and submitted to the Port Manager within thirty (30) days of the date the conduct complained of was first discovered. All complaints must be investigated within sixty (60) days. No penalty may be assessed more than sixty (60) days after the date of the Port Manager's receipt of a written complaint. Penalties shall be assessed by servicing a written Notice of Assessment upon the party thereby charged, either through personal delivery or registered or certified U.S. mail, within ten (10) days of the date of such Notice of Assessment. Each Notice shall state the amount of the penalty assessed, grounds therefor and shall inform the assessee of his or her right to appeal the assessment to the Port Manager and Board of Directors and, thereafter, to challenge the validity or amount of the assessment pursuant to the Administrative Adjudication Law. In addition, a copy of each written complaint upon which the assessment is based shall be attached to, and incorporated by reference in, the Notice of Assessment.

1.9 Complaints and Appeals: All complaints and appeals relating to any violation of these Rules and Regulations, or of any order of a Port Authority official or the Harbor Master in relation to the granting, revocation or denial of any permit, shall be made in writing and addressed to the Port Manager.

1.10 Procedure in Contested Cases: All complaints and appeals authorized by these Rules and Regulations shall be adjudicated pursuant to the Administrative Adjudication Law, Title 5, Section 9100 et seq., Guam Code Annotated.

1.11 Notice: Where notice to a permittee, vessel owner, charterer, agent or any other party is required by these Rules and Regulations, such notice will be effected in one of the following manners:

- a. Posting the notice in a conspicuous place aboard the permittee's vessel or at the assigned berth;
- b. Mailing the notice to the person by certified mail, return receipt requested, at the person's last known address, provided that service by mail is deemed received and completed five (5) days after the date of mailing; or
- c. personal service; provided that in an emergency, where life and property is endangered or if a vessel may interfere with other vessels, construction or maintenance of berthing facilities, or with the free and proper navigation of a waterway unless immediate action is taken, remedial action may be taken by the Harbor Master without prior notice.

2.0 DEFINITIONS

- 2.1 **Agent:** Representative of a vessel's owner or charterer who is authorized to transact business for that vessel.
- 2.2 **Alpha Hotel (Pilot Station):** The designated approach to Apra Harbor for all vessels prior to entering Apra Harbor. Exact pilot station range: 13 degrees latitudes, 26 minutes, 52 seconds, North, 144 degrees Longitude, 35 minutes, 15 seconds, East, Range: 083 Degrees, 2 Nautical miles West of Orote Point.
- 2.3 **Berth:** A vessel which is moored or made fast to a quay, wharf, dolphin or other structure is said to occupy a berth.
- 2.4 **Breakwater:** The Glass Breakwater at the entrance to the Harbor, Apra Harbor.
- 2.5 **Bunkering:** The loading of oil into bunker tanks for use as fuel, as defined in 33 CFR 158.120.
- 2.6 **Captain of the Port:** The Captain of the Port is the Commanding Officer of the United States Coast Guard in Guam.
- 2.7 **Container Berth:** Any berth at a Port Authority dock or pier designated by the Port Manager for preferential or exclusive use by vessels loading or discharging shipping containers.
- 2.8 **Container Cargo:** Any and all cargo carried and contained in a shipping container.
- 2.9 **Department:** The Port Authority of Guam (Port Authority).
- 2.10 **Dockage:** The charge assessed against a vessel when:

- a. Berthed at or made fast to a quay, wharf, dolphin or other structure;
- b. Occupying an outside berth;
- c. Not tied up to or lying alongside of a quay or wharf but is using such by means of boats, rafts, lighters, or other means.

2.11 Expected Time of Arrival (ETA): Mandatory advance notification, and timely notice of a change in such times or dates, provided to the Harbor Master by the masters, owners, charterers or agents of any commercial vessel arriving at or departing from the Port of Guam.

2.12 Fairway: Within 114m on either side of a line beginning at latitude 13 degrees 26'47"N, longitude 144 degrees 35'07"E; then to latitude 13 degrees 27'14.1"N, longitude 144 degrees 30'14.4"E; then to latitude 13 degrees 26'35.2"N, longitude 144 degrees 39'46.4"E; then to latitude 13 degrees 26'30.8"N, longitude 144 degrees 39'44.4"E. Vessels may not anchor in the fairway.

2.13 First Class Pilot: A person who holds a valid license or endorsement issued by the United States Coast Guard for the waters in which they are operating.

2.14 Flammable Liquid: Any liquid which gives off flammable vapors (as determined by the Tagliabue Open Cup Tester, as used to test burning oils) at or below a temperature of 80 degrees Fahrenheit.

2.15 Guam Waters: All United States waters contiguous to the island of Guam, exclusive of federally restricted water.

2.16 Harbor: All waters within Apra Harbor extending to the Glass Breakwater.

2.17 Harbor Master: The designated representative of the Port Authority and its General Manager, who is delegated full authority to administer these Rules and Regulations, in

coordination with the Port Authority Safety, Fire and Security Departments. The Harbor Master is authorized to issue orders to ensure the safe and efficient operation of vessels within Apra Harbor and all Guam waters within his jurisdiction. Also refers to any person acting with the authority of the Harbor Master.

- 2.19 Harbor Pilot:** A person who holds a pilot license issued by the Government of Guam for the waters in which they are operating.
- 2.20 Outside Berth:** A vessel which moors or makes fast to another vessel which is occupying a berth is said to occupy an outside berth.
- 2.21 Port Facilities:** All channels, waterways, basins, seawalls, docks, piers, land areas, utilities, warehouses, cargo handling machinery and equipment, tugboats, barges, fire boats and other works, properties, structures and other facilities necessary for the development or operation of the Port of Guam and recreational boating facilities of Guam (12 GCA S10101[c]).
- 2.22 Port Manager:** The General Manager of the Port Authority, and any person acting with the authority of the General Manager.
- 2.23 Port of Guam:** Those port facilities in and around Apra Harbor owned or controlled by the Port Authority of Guam.
- 2.24 Shipping Container:** A cargo carrying unit or device designed to be transported directly and mechanically between vessels and other forms of transportation, so as to eliminate intermediate dockside re-handling and/or storage of cargo. In addition, such container shall have minimum dimensions of eight (8) feet in width and ten (10) feet in length. Sea Vans, (also called van-packs) of the type commonly used by companies or firms to ship household goods or personal effects, are excluded from the definition of a shipping container so described herein.

- 2.25 Tanker:** A self-propelled cargo vessel specially designed and equipped with tanks for the transportation of oil, gasoline, molasses or other liquids, fluids and free flowing materials and which is actually transporting therein fuel oil, diesel oil, lubricating oil, gasoline, jet fuels, benzene, kerosene, naphtha or other flammable petroleum or other liquid, fluid or gas products.
- 2.26 Tankerline Vessel:** A cargo ship, primarily designed to carry ordinary freight but equipped with additional bunkers or compartments in which it is actually transporting fuel oil, diesel oil, lubricating oil, gasoline, jet fuels, benzene, kerosene, naphtha, or other flammable petroleum products or like products in excess of its own requirements as cargo.
- 2.27 Typhoon Conditions:** Under these Rules and Regulations, typhoon conditions shall be determined by the Captain of the Port.
- 2.28 Typhoon Condition 4:** Conditions normal.
- 2.29 Typhoon Condition 3:** Typhoon winds of 64 knots (77 miles per hour) or more are anticipated within 48 hours.
- 2.30 Typhoon Condition 2:** Typhoon winds of 64 knots (77 miles per hour) or more are anticipated within 24 hours.
- 2.31 Typhoon Condition 1:** Typhoon winds of 64 knots (77 miles per hour) or more are anticipated within 12 hours.
- 2.32 Vessel:** Power boats, ships, tugs, sailing vessels, barges, scows, lighters, ferry boats, and all other watercraft, except public vessels of the United States.

2.33 Vessel Master: The designated person responsible for the safe navigation and operation of a vessel.

2.34 Wharfage: The charge assessed against all cargo:

- a. Passing or conveyed over, onto or under any quay or wharf; or
- b. Passing or conveyed to or from a vessel when such vessel is:
 - i. made fast to a quay or wharf, or
 - ii. moored in any slip, channel, basin or canal; or
 - iii. made fast to another vessel which is made fast to a quay, wharf, or moored in any slip, channel, basin or canal (wharfage is solely the charge on cargo for the use of the quay, wharf, slip, channel, basin or canal and does not include charges for any other activity or service).

3.0 RESPONSIBLE OFFICIALS

3.1 Harbor Master: The Harbor Master is the designated representative of the Port Authority of Guam, and its General Manager, and as such is delegated full authority to administer these Rules

and Regulations. In addition, the Harbor Master may issue orders and establish procedures necessary for the safe and efficient use and operation of all ports, harbors and marinas within the Port Authority's jurisdiction. Any authority herein given to the Harbor Master may be delegated by the Harbor Master to the Assistant Harbor Master.

3.2 Port Manager: The Port Manager is the General Manager of the Port Authority of Guam, and is responsible for the overall administration of the Port Authority, from cargo handling and equipment maintenance to personnel management.

3.3 Captain of the Port: As stated in 33 C.F.R. 1.01-30, the Captain of the Port, or delegated representatives, enforce within a particular area, port safety and security and

marine environmental protection regulations, including, without limitation, regulations for the protection and security of vessels, harbors, and waterfront facilities; anchorages; security zones; safety zones; regulated navigation areas; deepwater ports; water pollution; and ports and waterways safety.

3.4 Dock Master: The Dock Master is the duly authorized representative of the Harbor Master whose duties are to berth vessels at berths so designated by the Harbor Master or other authorities and to advise vessel masters and crews of these Rules and Regulations.

3.5 Vessel Master: The Vessel Master is the designated person in charge of a vessel. The Vessel Master shall obey and carry into effect any orders given by the Harbor Master or Dock Master in relation to the plans and manner of bringing vessels to anchorage, entering or leaving a harbor, or coming alongside of, or leaving any quay or wharf, and shall not move or allow his vessel to be moved in, out, or within a harbor, or anchorage without the permission of the Harbor Master or Dock Master.

3.6 The Vessel Master's Duties: The safe navigation of a vessel, including piloting, is the paramount duty of the Vessel Master, and the presence of a Harbor Pilot on the bridge shall in no way relieve the Vessel Master of his duties. The Vessel Master remains at all times in full command of the vessel. He shall continue to navigate and shall take bearings and soundings and check compass courses, check radar, and take all actions necessary to safeguard the vessel under his command. In that regard, it shall be the duty of the vessel and her Vessel Master:

- a. To immediately inform the Pilot of all reports by lookouts;
- b. On radar equipped vessels, to have the radar functioning and monitored as needed so that the Vessel Master and Harbor Pilot can be informed of observed targets;
- c. To arrange for and provide adequate tug assistance, if required by these Rules and Regulations and to arrange for and have available adequate vessels lines to assist in tying up the tug or tugs;

- d. To remain on the bridge at all times and to accompany the Harbor Pilot in respective duties on and about the bridge;
- e. To provide and supervise competent vessel personnel;
- f. To understand and acknowledge that the Harbor Pilot is employed primarily to provide knowledge of the Harbor, and that the Harbor Pilot is acting solely in an advisory capacity, and not in a command capacity, and that the Harbor Pilot has no authority independent of the Vessel Master;
- g. To have at all times an adequate ship's anchor properly prepared and ready to drop;
- h. To provide officers conversant with the English language; and if they do not understand English, then request that the Harbor Pilot give orders by hand signals;
- i. It is the duty of the vessel owners, masters, operators, charterers, or agents to inform the Harbor Pilot, either before or immediately after the Harbor Pilot boards the vessel, of any vessel peculiarities, including but not limited to, the following:
 - i. Any defects or deficiencies in the vessel, her personnel, engines or tackle;
 - ii. Any vessel peculiarities concerning steering, stopping, handling, speed and maneuvering and the propensity-of the vessel to steer; and
 - iii. Any other information, whether or not herein enumerated, that might assist the Harbor Pilot in the pilotage of the vessel.

3.7 Agents: The Agents, and their designated representatives, when requested by the Harbor Master, shall give and afford the Harbor Master all possible aid in the performance of any of his duties in relation to the vessels they represent.

3.7 Pilotage Services: All pilotage services shall be offered and rendered, and shall be requested and accepted by the vessel, on the express understanding that such pilotage services are provided or performed solely in the Harbor Pilot's capacity as a servant of the vessel and of her owners, masters, operators, charterers or agents, and not otherwise.

3.8 Berthing of Vessels: The berthing of vessels at Port Authority quays or wharves shall be at the direction of the Harbor Master.

- 3.9 Vessel Master Shall Assist the Harbor Master:** The Vessel Master, and the crew thereof, when requested by the Harbor Master, shall give and afford the Harbor Master all possible aid in the performance of any of his duties in relation to such vessel.
- 3.10 If No Person Aboard a Vessel:** If by reason of there being no person aboard a vessel with proper authority, or if by reason of an insufficient number of persons aboard such vessel, or if the Vessel Master and/or crew of a vessel refuses to aid the Harbor Master in moving, pumping, mooring or un-mooring such vessel when so directed by the Harbor Master, the Harbor Master is empowered to move, pump, moor or un-moor, place or remove such vessel. To this end, the Harbor Master may, if necessary, hire such assistance, equipment and tackle and/or purchase and put aboard such quantity of ballast as to him seems requisite all at the expense of the, owners, charterers or agents of such vessel. All costs shall be paid to the Port Authority before permission for departure is given. The Port Authority shall in no way be liable for any damage or loss occurring to any vessel in consequence of such proceedings.
- 3.11 No Person to Cut or Cast Off Lines:** No person without the consent of the Harbor Master shall cut or cast off any mooring lines, rope or tackle made fast or attached to any vessel, quay, wharf, mooring, buoy or other place when the same has been fastened or attached by the Harbor Master or by order of the Harbor Master.
- 3.12 Typhoon Evasion Plan:**
- a. **Typhoon Condition 3:** Vessels under 200 feet in length, and not normally home-ported in Guam, will depart from the Harbor if directed by the Harbor Master or designated representative. All disabled vessels must obtain permission from the Captain of the Port and the Harbor Master to remain in Port at a designated mooring. The intent of this provision is to require such vessels to depart from the Harbor while able to do so before conditions worsen, unless such vessels can be

adequately secured during the typhoon. The Harbor Master's order to depart for sea shall be final and not subject to appeal.

- b. **Typhoon Condition 2:** All vessels will depart for sea when directed by the Harbor Master or a designated representative except those disabled vessels authorized by the Captain of the Port or the Harbor Master. The Port shall be closed when so ordered by the Captain of the Port.

4.0 USE OF WATERWAYS AND HARBOR FACILITIES

- 4.1 **Port Authority Rules and Regulations Shall Govern:** The use of any waterway or facility under the jurisdiction of Port Authority by any vessel shall constitute the consent and evidences the agreement on the part of the vessel's owners, charterers and lessees to comply with, and be governed by, all terms and conditions of these Harbor Rules and Regulations, to pay all charges specified in the Port Authority Tariff Schedule, and to discharge all fines assessed against the vessel.
- 4.2 **Preference for Use of Wharves F-5 and F-6:** *Preference in the use of wharfs F-5 and F-6 shall be given to vessels loading or unloading shipping containers.*
- 4.3 **Testing of Engines at the Dock:** The engines of any vessel moored at any quay, wharf, dolphins, or other structure shall not be tested except by permission of the Harbor Master. This shall not apply to routine pre-departure warming up of engines.
- 4.4 **Speed of Engines During Dock Trials:** The speed of engines being tested as referred to in the preceding paragraph shall not exceed the speed of such engines when operated under a dead slow bell.

- 4.5 Responsibility for Any Damage Done During Dock Trials:** Any vessel testing her engines as previously referred to will be held responsible for any damage to quays, wharves or other vessels or property as a result of such testing of her engines.
- 4.6 No Vessel to Blow Tubes in Port:** No vessel shall blow tubes or emit unnecessary smoke or polluting vapors of any kind at any time while in port.
- 4.7 No Garbage to Be Dumped:**
- a. No garbage, rubbish or trash shall be dumped on the quays or wharves of the Port Authority, or into the waters of any harbor, marina or other boating facility. Pollution of any kind is prohibited, and penalties as provided by law will be imposed. Pollution of any kind shall be reported immediately to the Harbor Master. The United States Coast Guard shall be *immediately notified* of any discharge of oil or plastic into Guam Waters.
 - b. **Regulated Garbage:** No hazardous materials may be disposed of in garbage receptacles. All food or food contaminated garbage must be deposited in trash receptacles provided and marked "Regulated Garbage Only". All other garbage may be disposed of in general garbage receptacles. All vessels requiring regulated receptacles must submit a request to their agents (33 C.F.R. 158.410).
 - c. The United States Coast Guard and the Guam Environmental Protection Agency shall be immediately notified of any discharge of garbage into Guam Waters.
- 4.8 No Dumping of Raw Sewage.**
- a. No vessel, *whether commercial or private pleasure craft*, shall deposit raw sewage within the ports, harbors, bays, rivers, lagoons or other Guam waters, except as may be permitted by federal or local regulations. Violators of these regulations will be reported to the appropriate authorities. Penalties for any such violation will be assessed as provided by applicable law or regulation.
 - b. The Port Manager and the Harbor Master shall have the authority under these Rules and Regulations to inspect any vessel or craft to ensure that proper

standards of health and sanitation are being maintained. Should improper conditions be found to exist, the appropriate health authorities will be notified to take whatever actions are deemed necessary.

5.0 VESSEL MOVEMENTS

- 5.1 Control of Vessel Movements in the Harbor:** All vessels within the Harbor over fifty (50) feet in length shall advise the Marine Traffic Controller (Channel 13, VHF.FM) of all intended moves into, within, or out of the Harbor, giving the destination and departure time. Such vessels will operate under the direction of the Marine Traffic Controller pursuant to instructions issued by the Harbor Master or an authorized representative.
- 5.2 Control of Vessel Entry and Discharges:** All vessels entering Guam Waters for the purpose of unloading or transferring passengers or cargo in Guam shall be cleared for such purpose at the Port of Guam. No passengers, crew, cargo or any other property aboard vessels entering Guam may be off-loaded onto any wharf, pier, quay, dock or other facility, or transferred to another vessel, except as directed by the Harbor Master or the Captain of the Port (5 GCA S73115).
- 5.3 Port Manager and Harbor Master to Have Access to Vessels:** The Port Manager, Harbor Master, and/or such other person as may be designated, shall be permitted to enter upon and inspect any vessel to ascertain the kind and quantity of cargo thereon, and upon any rented or leased premises of the Port Authority of Guam to inspect such premises, as the interests of the Port Authority may require.
- 5.4 Having Anchor Ready to Let Go:** All commercial vessels entering or leaving a port, harbor or marina will have an anchor clear and in readiness to let go if required.

5.5 May Not Make Fast or Secure Except to Proper Bitts, Cleats, Etc. No person shall make fast any rope or mooring line to any wharf or part thereof, except to mooring piles, bitts, or cleats provided for that purpose.

5.6 Requirement to Have a Safe Gangway and Display Light: All vessels other than barges and vessels under 300 gross tons moored alongside of a wharf shall:

- a. At all times have a safe and proper gangway to the wharf; and
- b. Between the hours of sunset and sunrise display a light other than a navigation or anchor light that is visible from the harbor or fairway

5.7 Notification of Expected Time of Arrival (ETA), etc. The masters, owners, charterers or agents of any commercial vessel arriving at or departing from the Port of Guam shall notify the Harbor Master as soon as practicable of the vessel's:

- a. date and hour of expected arrival;
- b. departure date and time;
- c. draft;
- d. length over-all;
- e. gross tonnage; and
- f. vessel flag.

In the event of a change in such times or dates, the Harbor Master shall be notified immediately.

5.8 May Not Bring Logs, Rafts, Etc., Alongside the Quay: No person or persons shall cause any vessel, raft, log or other floating object to come alongside of, to be moored to, or near, any quay, wharf or pier in any manner that may cause damage to such quay, wharf or pier.

5.9 Removal of Vessel, Rafts, Etc., From Alongside Which May Do Damage: The Harbor Master shall remove to some suitable place any vessel, raft, log or other floating object which may cause damage to or interfere with the use of any quay or wharf. The

owner thereof, if known, shall be notified forthwith in writing of such removal; but if the owner is not known, due notice of such removal shall be given by posting a notice in a conspicuous public place near such vessel. If within ten days after the date of giving or posting such notice no claim is made for the property, the Harbor Master may sell or otherwise dispose of such vessel, log, raft, or other floating object and apply the proceeds of such sale to defray the expenses of the Port Authority and credit the remainder, if any, to the owner. The Port Authority of Guam shall not be responsible for any loss or damage to such vessel, log, raft, or other floating object.

5.10 Damage to Quays, Wharves, Wharf Structures, Utilities and Cargo Handling and Storage Areas: The vessel masters, owners, charterers, and agents requesting a berth, cargo space allocation, or use of harbor facilities incident to the receiving, discharging, loading and removal of cargo will be responsible:

- a. For all damage caused to Port Authority property by himself, his employees, or any agent, subcontractor or materials handling firm under contract to them doing the discharging, loading, repairing or bunkering of a vessel; and
- b. For providing necessary protection to harbor facilities to protect them from damage in excess of normal wear and tear.
- c. **Repairs to Port Authority Property:** Any person responsible for damage to Port Authority property shall make repairs in accordance with Port Authority specifications. If the repairs are completed improperly or if the responsible party does not undertake the repairs within a reasonable time, the Port Authority will act to repair the damage and will bill the responsible party for the following:
 - i. Direct labor charges and cost of materials, plus an overhead charge of 25 percent if the repairs are made by Port Authority employees; or
 - ii. The contractor's charges plus an administrative charge of 25 percent if the repairs are made by a contractor hired by the Port Authority.

5.11 Maximum Speed of Vessels:

- a. All vessels over fifty (50) feet in length shall proceed at a rate of speed (except in case of emergency) commensurate with safe navigation and slow enough so as not to cause damage to other vessels and/or property.
- b. Vessels under fifty (50) feet when within three hundred (300) feet of any wharf, pier or quay, or within the Piti Channel, shall not exceed ten (10) nautical miles per hour, and when within fifty (50) feet of any wharf, pier or quay, a no wake speed must be maintained.
- c. Nothing herein shall preclude the Harbor Master from setting different rates of speed to meet special conditions. Otherwise, except as provided in the above subsections, the “Inland Rules – Rules of the Road” shall govern the operations of all vessels in the Harbor.

5.12 Priorities and Scheduling of Vessel Movements and Berth Assignments in Apra Harbor:

- a. Priorities for vessel movements, other than for typhoons and unless otherwise authorized by the Harbor Master, shall be as follows:
 - i. Government vessels when responding to emergencies;
 - ii. Vessels stopping to discharge sick or injured person(s);
 - iii. Passenger vessels;
 - iv. Inbound vessels scheduled to load or discharge cargo upon arrival:
 - (1) Cargo vessels;
 - (2) Tug and tow;
 - (3) Tankers.
 - v. Shift cargo vessels when required for further cargo handling;
 - vi. Outbound vessels with inter-island cargo;
 - vii. Incoming vessels arriving for repairs or bunkers;
 - viii. All others.
- b. Priorities for vessel movements in the event of a typhoon warning, unless otherwise authorized by the Harbor Master, shall be:
 - i. Government vessels;

- ii. Tankers;
 - iii. Vessels with explosive cargo;
 - iv. Passenger vessels;
 - v. Freighters;
 - vi. Others.
- c. **Scheduling Procedures:** Agents shall submit the following to the Harbor Master:
- i. Copies of passenger vessel schedules as far in advance as possible;
 - ii. At the earliest possible time, any ship scheduled for Port Authority. This shall constitute a tentative booking;
 - iii. Prior to 11:00 A.M., the week before a vessel's arrival, or as soon thereafter possible, submit a preliminary Expected Time of Arrival (ETA) to the Harbor Master.
 - iv. Prior to 11:00 A.M., the day before arrival, a final ETA shall be submitted to the Harbor Master. A schedule shall then be prepared by Harbor Master. The schedule shall be based on the priorities listed in sub-paragraph a. above and on the final ETA, and shall be published by 2:00 P.M. each day. All changes thereafter must be reported to the Control Tower operator. Berthing assignments for changes in schedules will be made on a first-come-first-served basis, and shall not interfere with established Harbor Master schedules.
 - v. Prior to 11:00 A.M., daily, submit to the Harbor Master known departures and shifts for the following day. All changes thereafter are to be submitted direct to the Marine Traffic Controller on duty. Changes in schedules will be based on the priorities in sub-paragraph a. above, a first-come-first-served basis, and shall not interfere with established Harbor Master schedules.
 - vi. Vessels arriving and/or departing at the same hour will be handled in accordance with the priority described in sub-paragraph a. above. Within any category, the vessel that was assigned a confirmed booking first will be

permitted to move first unless the vessel is late or operating conditions in the harbor dictate otherwise.

vii. Agents are requested to advise the Harbor Master at the earliest possible time when vessels scheduled to call Guam change their ETA, or to provide at least 24 hours notice of cancellation of their ETA or itineraries.

d. Other requirements:

i. Applications for a berth assignment shall include information as to any peculiar requirements (i.e., camels needed for side-port bunkering, whether one side has to be alongside pier for repairs or other special reasons, etc.). Also, indicate any unusual physical features that might affect piloting or mooring, such as engine or steering gear problems.

ii. Vessels using side-ports for bunkering, storage, passenger debarkation, or other reasons, should have side-ports closed when approaching the berth, in order to avoid damage to the pier or to the side-port.

iii. Except for those vessels entering to load petroleum products or for special repairs requiring minimum draft, all vessels will be ballasted so as to reduce freeboard to a reasonable degree, and to provide positive stability for the class vessel. Ballasting and de-ballasting shall be accomplished seaward of ALPHA Hotel.

iv. Agents shall arrange for proper and adequate linemen on time for all vessel arrivals, shifts and departures.

v. **Pilots and Tugs:** Agents shall make all arrangements for the employment of pilots and adequate tug assistance.

vi. It is the duty of the vessel's agent to keep Customs and Immigration officials advised as to the docking time of vessels being handled by them. It is not a responsibility of the Harbor Master to arrange for such officials to board, inspect and clear vessels.

vii. All changes in a vessel's arrival time, shifting time or sailing time must be made at least two (2) hours in advance of the previously booked time.

- 5.13 Vessels Entering and Exiting the Outer Harbor:** The following regulations apply to all vessels entering and exiting the outer portions of the Harbor:
- a. Except for vessels not more than 100 feet in length, tow boats or tugs without tows, no vessel may pass another vessel within five hundred feet (500') of the Outer Harbor entrance.
 - b. Vessels over 100 gross tons shall: (a) steady on the entrance range at least two (2) miles west of the entrance when approaching the Harbor, and shall (b) steady on the range when departing the Outer Harbor.
 - c. No vessel may leave the Outer Harbor until any inbound vessel over 100 feet in length has cleared the Outer Harbor Entrance.
- 5.14 Use of Line Handlers:** All commercial vessels using Port Authority wharves, piers, or other dock facilities must use shore provided line handlers for reasons of safety. Dock Masters and other personnel from the Harbor Master's office are not to be used in lieu of such line handlers.
- 5.15 Anchoring in Fairways:** No vessel shall anchor in any fairway so as to obstruct vessel movements or the approach to any wharf (ref. 33 C.F.A. Part 166).
- 5.16 Authority to Establish Anchorages:** The Harbor Master is authorized to designate areas within the Harbor under the jurisdiction of the Port Authority for anchorage and to issue anchorage permits, provided such designations are in conformity with all federal and territorial laws and regulations.
- 5.17 Launching and Landing of Helicopters and Aircraft:** The launching and landing of helicopters or other manned aircraft from a vessel moored or alongside another vessel, or within five hundred feet (500') of any Port Authority owned or controlled pier, wharf, quay, bulkhead, landing, dolphin or other mooring facility is strictly prohibited. No

helicopter or aircraft may take off or land at the designated landing zone ("LZ") at Golf Pier without prior permission of the Harbor Master.

- 5.18 Communications:** Operational communications within the HMO are conducted by Marine VHF Radio (Channel 13) and commercial telephone (671.447.8697). The Captain of the Port may also be contacted by Marine VHF Radio (Channel 13) or telephone (671.339.2001, ext. 112 or 113). All users of Marine VHF Radio communications equipment are encouraged to voice traffic, maintain circuit discipline, and to broadcast on "low power" whenever possible.

6.0 PILOTAGE

- 6.1 Pilot Service:** Pilot services are available on a 24 hour basis for Apra Harbor. Pilots are required to board inbound vessels and leave outbound vessels at Alpha Hotel (Pilot Station) two nautical miles West of Udal (formerly Orote) Point to insure that the vessel is properly aligned on the entrance range. However, depending on weather conditions, pilot boarding at a different location may be permitted by the Harbor Master for safety reasons on a case by case basis.
- 6.2 Pilots and Vessel Masters to Observe All Regulations:** Pilots and Vessel Masters will observe all harbor, quarantine, immigration and other Federal regulations.
- 6.3 Pilotage Waters:** Pilotage waters as established under this Chapter shall consist of all waters of the Territory within two nautical miles of Udal (formerly Orote) Point and all waters within Apra harbor, exclusive of federally restricted waters.
- 6.4 Mandatory Use of Harbor Pilot:** Every vessel involved in trade or commerce, other than an exempt vessel, entering, departing from or traversing the waters of the Harbor shall employ a Harbor Pilot. However, a vessel declared by the Harbor Master or the

Captain of the Port to be in immediate danger of destruction or which poses an immediate hazard to public safety by its presence in any harbor may be moved without a Harbor Pilot when a Harbor Pilot is not immediately available.

6.5 Exempt Vessels: A Harbor Pilot is not required for:

- a. Vessels not involved in trade or commerce;
- b. Enrolled and other vessels that are exempt under the laws of the United States of America, provided they are under the direction and control of a federally licensed pilot;
- c. Vessels home-ported in Guam and involved in the tourism trade, such as dinner-cruise boats, diving and fishing charter boats, submersibles and rental craft.

6.6 Exempt During Daylight Hours Only: The following vessels, not otherwise exempt as provided for in Section 6.5 above, may enter, exit and be operated in the Harbor without the assistance of a Harbor Pilot, but only during daylight hours:

- a. Vessels under 500 gross tons provided that the Vessel Master has previously entered and exited the Harbor while operating a vessel with the assistance of a licensed pilot and provided that the Vessel Master or mate on board the vessel is able to communicate in the English language with the Harbor Master and the Captain of the Port and provided that adequate two-way communications between the vessel and the Harbor Master and the Captain of the Port are continuously maintained, either directly or through the vessel's agent, while the vessel is underway in Guam Waters;
- b. Tugs and tows home-ported in Guam or the Commonwealth of the Northern Mariana Islands provided that the master of the tug and tow has previously entered and exited the Harbor while operating a vessel with the assistance of a licensed pilot.

6.7 Exception for Safe Navigation: This section is not intended to negate or limit the Harbor Master's responsibility for the safe navigation of all vessels within Guam waters. Accordingly, the Harbor Master may recommend or require the assistance of a pilot for any vessel exempt by this provision if the Harbor Master determines such is necessary to ensure safety in any port or other waters of the territory.

6.8 Priority for Pilot Services:

- a. A Harbor Pilot will offer his services in the order of priority established by the Harbor Master, unless another vessel is observed approaching a dangerous position in which case effort will be made to offer to board and assist the latter vessel.
- b. All Harbor Pilots will aid and assist, by every means within their power, any vessel in distress.

6.9 Pilots to Bring Vessels to Berths Assigned by the Harbor Master: A pilot bringing a vessel inward, unless required to anchor for quarantine, will bring the vessel to such wharf or berth as the Harbor Master may direct.

6.10 Pilots for Small Craft: Every person operating small craft in a Guam harbor, marina or other boating facility, or through channels or entrances leaving or approaching same, shall do so at their own risk. Harbor pilots can be made available for small craft, if desired, as set forth in the sections above.

6.11 Pilot Licensing Rules and Regulations: The following rules and regulations adopted pursuant to the Compulsory Pilotage Act of 1999, Public Law 25-09.

- a. **License Required:** No person shall pilot, or offer to pilot, a vessel not exempt pursuant to these rules unless he has first obtained a pilot's license from the Port Authority.
- b. **License Qualifications:** The Port Manager shall issue a license upon (1) application and payment of the application fee, (2) issuance or presentation of a

United States Coast Guard license duly endorsed for the piloting of vessels into, out of and within the Harbor.

- c. **License Term and Automatic Renewal:** Each license shall be effective for a period of five (5) years and shall be automatically renewed upon application therefor, upon payment of the application fee, as long as the applicant possesses the minimum qualifications established by these rules and remains in active service as a pilot in the territory (refer v. below). However, nothing herein shall prevent the suspension, revocation or denial of a pilot's license for good cause, in accordance with the provisions of these rules or applicable law.
- d. **Pilot License Fees:** Each applicant shall pay a fee of \$100.00 for a pilot's license, or for the renewal thereof. Such fees shall be payable to the Port Authority.
- e. **Denial, Suspension or Revocation:** In addition to any other action authorized by law or these rules and regulations, the Port Manager may deny the issuance of a pilot's license to any applicant and may suspend or revoke the license of any pilot for cause, including but not limited to the following:
 - i. Violation of this Chapter or any rule or regulation of the Port Authority of Guam;
 - ii. Negligent pilotage;
 - iii. Habitual use or consumption of any substance rendering a harbor pilot unfit to be entrusted with the safe navigation of a vessel;
 - iv. Lack of ability to perform the duties of a harbor pilot;
 - v. Failure to remain engaged in regular or active service as a pilot in the territory (i.e., completing at least five (5) trips each quarter or three-month period);
 - vi. Procurement of a license through fraudulent misrepresentation or deceit;
 - vii. Violation of any law or regulation prohibiting unfair or deceptive acts or practices;
 - viii. Violation of any law or regulation intended to promote marine safety or protect navigable waters or the environment;

- ix. Failure to report a marine accident (i.e., any vessel grounding, collision, allision, oils or hazardous materials spill, or a failure of main engine, primary steering system, radar or echo depth sounder) in accordance with the rules and regulations of the Port Authority of Guam; or
 - x. Failure to maintain a current and valid federal pilots license or appropriate pilotage endorsement issued in accordance with Title 46, United States Code, Chapter 71.
- f. Exhibition of License.** A Harbor Pilot, upon boarding a vessel, and whenever required by the Vessel Master thereof, shall exhibit his or her pilot's license or a photocopy thereof.
- g. Piloting Without a License.** Unless the person holds a current Guam license to do so, no person shall pilot or offer to pilot a vessel not exempt by these rules. Nor shall any person on board a tug or tow boat tow, or agree to tow, a vessel or barge not exempt by these rules, unless the vessel shall have on board a pilot duly licensed pursuant to these rules.
- h. Rates of Pilotage.** The Port Authority of Guam shall not provide or warrant the availability of pilot services, which shall be provided solely by the private sector. The terms of any contract for pilotage, including rates or pilot fees, shall be negotiated and agreed upon by the parties thereto, except as specifically provided herein.
- i. Complaints.** Any person having a complaint against a Pilot shall make such complaint as soon as possible in writing to the Harbor Master, who shall immediately investigate the complaint and report thereon to the Port Manager. All complaints shall be processed and adjudicated in the manner provided in Sections 1.8 through 1.11 of these Rules and Regulations. A copy of each complaint shall also be immediately forwarded to the Captain of the Port.
- j. Pilot License Review Board.** The Port Manager shall appoint a Pilot License Review Board, comprising the Harbor Master, who shall serve as its Chairperson, an Assistant Harbor Master, three licensed Harbor Pilots (not more than two employed by the same company), and two members representing the shipping

industry. Each member, except for the Harbor Master and the Assistant Harbor Master, shall serve for a term of two years or until replaced. The purpose of the Pilot License Review Board is to review and recommend appropriate disposition of complaints and other disciplinary action against a Harbor Pilot to the Port Manager and the Port Authority Board of Directors. No pilot's license shall be suspended or revoked, or any disciplinary action taken, unless such action has been reviewed by a majority of the members of the Pilot License Review Board, or thirty days have passed from submittal of the matter for such review. The Port Manager and the Port Authority Board of Directors shall consider the recommendations of the Pilot License Review Board prior to implementing disciplinary action.

7.0 TUG SERVICE

- 7.1 **Availability of Tugs:** Tug escort services and assistance are available on a 24-hour basis for the Harbor. All arrangements shall be made by the vessel's agent sufficiently in advance to ensure that all vessels not exempt by these rules have adequate tug service.
- 7.2 **Use of Tugs:** A tug boat (or tugs) shall be used by all commercial vessels, exceeding 250 feet in overall length entering, leaving, or operating within the Harbor, except research vessels and vessels up to 300 feet in overall length equipped with an operational bow thruster. A fishing vessel's use of a skiff boat in lieu of a tug boat is permitted provided there is constant communication between the skiff operator and the Vessel Master.
- 7.3 **Safety Exception:** For reasons of safety, the Harbor Master may require any vessel to use the services of a tug or tugs.
- 7.4 **Tow Capacity:** Tow escorts shall be of sufficient capacity to safely tow the vessel should the vessel become disabled.

7.5 Length of Escort Service: Whenever weather and sea conditions permit, all tug escorts shall commence at Alpha Hotel (Pilot Station) and continue until the escorted vessel is safely and completely anchored, moored or docked in accordance with the Harbor Master's orders.

8.0 SAFETY, CLEANLINESS AND ENVIRONMENTAL REGULATIONS

8.1 Handling of Explosive and Other Dangerous Articles: Handling of shipments of explosive and other dangerous articles, as defined by the Titles 33 and 49, Code of Federal Regulations, will be permitted upon full compliance by the shipper, carrier, and terminal operator with all applicable laws and regulations, including Research and Special Programs Administration and United States Coast Guard regulations governing the packaging, marking, labeling, handling and transporting of such articles.

8.2 Fire on Board Ship: In the event of fire occurring on board any vessel in port, except vessels underway, such vessels will sound five (5) prolonged blasts of the whistle or siren as an alarm indicating fire on board or at the dock to which the vessel is moored. Such signal will be repeated at intervals to attract attention and is not a substitute for, but shall be used in addition to, other means of reporting a fire. The words "prolonged blast" shall mean a blast from four (4) to six (6) seconds in duration. This signal shall not be used for any other purpose.

8.3 Explosives: Except for Department of Defense vessels, no vessel containing more than 25 short tons of Class 1.1 and 1.2 (old classes A and B explosive) as specified in 49

C.F.R. 176.100 and certain 1.5 and 5.1 materials as specified in 49 C.F.R. 176.415 may enter the Harbor except as authorized in writing by the Captain of the Port.

- a. No facility may discharge from, load on, handle, or re-stow on board class 1.1 and 1.2 and certain 1.5 and 5.1 materials without notifying the Harbor Master and obtaining a permit from the Captain of the Port.
- b. All vessels entering or departing Apra Harbor with less than 25 tons of explosives on board may conduct cargo operations as follows:
 - i. Cargo stored within 40 feet of any explosive container shall not be disturbed or moved; and
 - ii. Cargo stored above and below of any explosive container shall not be disturbed or moved.

8.4 Handling, Loading and Unloading of Explosives: All handling and loading or unloading of explosives shall be done in a safe and careful manner, and in accordance with all Federal laws and regulations pertinent thereto.

8.5 Hauling of Explosives: All hauling of explosives away from or to the pier shall be done in a safe and careful manner and in accordance with applicable laws and regulations of the Guam Fire Department.

8.6 Storage of Hazardous Cargo: No Nitrate of Soda, Nitrate of Ammonia, Sulphur or other hazardous or toxic substance shall be stored or left upon any wharf for more than four (4) hours unless packed in sound and leak-proof containers. Such materials shall be under the continuous care of a competent watchman satisfactory to the Harbor Master until removed. The cost of such watchmen shall not be borne by the Port Authority.

8.7 Removal of Hazardous Materials: Indiscriminate sweeping of spilled hazardous material is an unsafe practice. The identity of spilled cargo shall be immediately determined. The Captain of the Port shall be notified of all hazardous material spills on board ship, in the water, or on the pier or facility. Except in an emergency situation, no

removal or cleanup efforts shall be undertaken without approval of the Captain of the Port.

- 8.8 Removal of Acid From Wharf:** *Acids of a dangerous character such as sulfuric, muriatic and nitric acids shall be removed from the wharf immediately upon discharge from the vessel, and no such acid shall be put upon a wharf for shipment until the carrier is ready to receive it. Permission of the Harbor Master must be secured in the event it becomes necessary to handle such cargoes at times other than specified.*
- 8.9 Hazardous and Flammable Substances in Leaky Containers:** *No gasoline, distillate, kerosene, benzene, naphtha, turpentine, paints, oils or other flammable substance shall be delivered onto any wharf in leaky containers without authorization from the Coast Guard and necessary permits from Guam and U.S. Environmental Protection Agencies. All such substances unloaded from any vessel in a leaky container shall be removed immediately.*
- 8.10 Combustible Materials Not to Be Flame Treated:** *No combustible materials such as pitch, tar, resin or oil shall be flame treated on board any vessel without the permission of the Harbor Master.*
- 8.11 Vessels Fumigated or Smoked at Dock:** *No vessel shall be fumigated or smoked at any wharf without permission in writing from the Port Manager or Harbor Master and approval from local and federal authorities.*
- 8.12 Fuel Burning Steam Generating Appliances:** *All fuel burning steam generating appliances when used on any wharf under control of the Port or on any scow, pile driver or other vessel working alongside or near any wharf shall be equipped with spark arresters satisfactory to the Harbor Master. At the close of each day's work all ashes, cinders, shall be promptly removed and shall not be disposed of in, near or upon the waters of the Harbor.*

- 8.13 Repair, Manufacturing, Construction Work or Maintenance Work:** No person shall make any repairs or do any kind of manufacturing, construction or maintenance work on any wharf without the permission of the Port Manager or Harbor Master.
- 8.14 No Smoking in Certain Areas:** Smoking is prohibited at all times within any freight shed, or upon any wharf apron, and during the time cargo is being loaded, unloaded or stored on any unshaded pier, except within areas designated by the Harbor Master and plainly marked "Smoking Area," and no person shall enter into, stand in or under, or pass through any such wharf or structure with a lighted pipe, cigar, cigarette, match, fire or any flame of whatever nature.
- 8.15 Use of Explosives:** The use of explosives is strictly prohibited on land, on any wharf, or in any shed or other structure, or in the waters in the immediate vicinity of the same, without the written approval of the Harbor Master and appropriate permits from local and federal agencies.
- 8.16 Loading and Unloading of Flammable Materials:** Loading or unloading of flammable liquids shall be in strict accordance with applicable federal and Guam laws and regulations (ref. 33 C.F.R., 126.15(0), Subpart L).
- 8.17 Welding and Burning Operations on Piers and Wharves and Aboard Vessels:**
- a. **Hot Work Permit:** Before any welding or burning operations can be done on wharf or waterfront facility, it is required that the party intending to do such work secure a permit from the Port Authority Safety Office and the Captain of the Port. All hot work operations on board ships will be conducted in accordance with 29 C.F.R. 1915 Subpart B.
 - b. **Inspections:** Before any welding, burning, spark-or flame-producing operations are undertaken aboard any ship, dock, wharf, or waterfront facility, all spaces subject to the accumulation of dangerous gases or gas producing materials, in or

on which hot work is to be performed, and such others spaces as may be required by the United States Coast Guard, or required under the provisions of National Fire Protection Association Standards, shall be inspected by a Marine Chemist or a licensed Industrial Hygienist. The Captain of the Port may also authorize, in writing, "Coast Guard Authorized persons" to conduct such inspections on a case by case basis. This authorization and certificate will be limited to the specific incident or specific vessel identified.

- i. Such spaces shall include, but shall not be limited to, oil and ballast tanks, cofferdams, void spaces, boiler and machinery spaces, pump rooms, compartments treated with combustible rust preventatives, including hollow rudders and skegs, paint lockers and shaft alleys.
- ii. On completion of inspection, a certificate shall be issued setting forth in writing the conditions found at the time of inspection and indicating by appropriate designations whether or not the contemplated repairs or alterations can be undertaken with safety.
- iii. One copy of the Marine Chemist or licensed Industrial Hygienist or Coast Guard-authorized person's Certificate shall accompany the application for a permit, and one copy shall be left aboard ship or waterfront facility, preferably posted in a conspicuous place near the gangway.
- iv. Hot work shall be performed in the locations and under the procedures designated in writing on the permit and Marine Certified Chemist's Certificate.
- v. Loading or moving of cargo or the movement of the ship from one location to another within the shipyard or installation for which a Marine Chemist or a licensed Industrial Hygienist Certificate has been issued is permissible without requiring an additional inspection and the issuance of a Marine Chemist or a licensed Industrial Hygienist Certificate when in the judgement of the Marine Chemist or licensed Industrial Hygienist or Coast Guard-authorized person such movement will not create a hazardous situation. However, the movement of ships from one

jurisdiction area to another shall require an additional inspection and the issuance of a new Marine Chemist or a licensed Industrial Hygienist Certificate before continuing hot work.

vi. All welding and burning operations shall be under the supervision and control of a competent foreman or supervisor who shall see that all regulations pertaining to welding or burning operations are complied with.

c. **Operations.** In all types of operations, fire prevention shall be the watchword, and all workmen should bear in mind that fire prevention is their individual responsibility. All combustible materials must be removed from the area in which the welding and burning operations are being conducted, or properly protected if removal is not feasible.

i. Welding or burning operations shall not be conducted around hatches or companionways, unless they are sealed with their own cover or door. In the event this is not possible, an asbestos blanket or other flameproof material may be substituted in their place. Such substitutions shall require the approval of the inspecting authority issuing the permit.

When welding or burning operations are being conducted in such locations that sparks could spatter or fly over the outside of the ship's hull, a protective shield composed of metal or other flameproof material shall be provided to prevent the sparks from igniting the wharf or dock, barges, or oil slicks on the water, or other combustible materials.

Water charged fire mains, with hoses and nozzles attached of sufficient length so that the water can reach the base of any fire which may occur, shall be on each deck of the ship where welding or burning operations are being conducted. A fire watch shall be provided in each space that is in direct contact with the surface where hot work is taking place.

When welding or burning operations are conducted on a wooden wharf, or a fire-resistant paved wharf with cracks or crevices, the entire surrounding area shall be drenched with water by means of a hose line and

kept wet during the entire operation to prevent sparks from igniting the flooring or timbers below.

- ii. No refueling of equipment with flammable petroleum products will be permitted on any pier or wharf without approval from the Port Authority Safety Office and the Harbor Master.
- iii. On waterfront facilities which are used for repair work, no gasoline or other flammable liquid shall be stored except as required for normal operations and then only when stored in approved containers and in quantities approved by the Port Authority Safety Office.
- iv. Petroleum based cleaning fluid which has been treated to satisfactorily reduce the flash point may be used for washing grease from machinery parts in an approved location safe for hot work operations. All paints or other flammable liquid materials shall be kept securely covered except when in actual use.
- v. Gasoline-powered generators or compressors shall not be operated on the vessel, but must be kept on the wharf. Said equipment shall be equipped with a spark arrester on the exhaust pipe, and the drip pan set in a position to protect the wharf in the event of any gasoline or oil being spilled. An attendant shall stand by at all times equipped with an approved fire extinguisher to extinguish any fires which may occur. At the conclusion of operations, said gasoline-powered equipment shall be removed from the wharf. Where insulated wire cables are in the path of traffic, they shall be protected from damage by crossovers, and where they lead into the ship they shall be protected from chafing damage by a protective-wrapped covering. Where electrical cables lead from one vessel to another, the same protective measures shall be used.
- vi. When acetylene or oxygen cylinders are used, the following precautions shall be followed at all times.

- (1) Compressed gas cylinders shall be used in a vertical position only, and shall be secured at all times to prevent falling. Cylinders, when in use, shall be kept on the pier at all times.
- (2) Do not drop cylinders; ruptured cylinders may explode. Do not use cylinders for rollers, anvils, or supports.
- (3) When cylinders are not in use, close valves and replace protective caps.
- (4) Cylinders shall not be handled by cranes, except when they are placed in specially constructed bottle racks or in a skip box. Under no circumstances shall gas cylinders be hoisted by a magnet, manila line, steel cable, chains, slings or nets.
- (5) Cylinders not in use shall be secured on a wheeled truck so they can be easily moved if a fire occurs in the immediate vicinity.
- (6) When permanently installed on a pier and exposed to the sun, cylinders shall be provided with adequate protection from the heat.
- (7) Valve and hose connections shall be kept tight to prevent leaks. Leaks shall be tested with soapy water and not with flame.
- (8) Cylinders shall be kept away from sparks, flame or heat.
- (9) Under no circumstances shall smoking be permitted in the vicinity of gas cylinders, whether or not burning/welding operations are in progress.
- (10) Acetylene hoses shall be tested frequently for leaks. If acetylene has been escaping in confined areas, the areas shall be properly ventilated and cleared of all gas, and the area tested and inspected by a competent person, before welding or burning operations are resumed.
- (11) No acetylene torch shall be left unattended while burning. When not being used the hose shall be coiled or looped in a workman-like manner and placed on a bracket at the cylinders, and the pressure in the hose relieved by closing off the valves on the cylinders and

opening the valves on the torch. Lines left unattended during meal times or other extended periods shall be either removed from compartments or disconnected at the cylinders.

(12) Oxygen cylinders shall be kept free from oil and grease at all times, because oxygen under pressure brought into contact with oil or oily substances oxidizes so rapidly that an explosion may occur.

(13) Oxygen shall not be used to blow out oil pipes, for paint spraying, or for pneumatic tools, as an explosion might occur.

(14) Compressed gas cylinders shall not be refilled on any wharf.

- d. Notification of Other Agencies:** When the Harbor Master or the Port Authority Safety Officer issues a permit to do hot work, the appropriate federal and local agencies shall be notified of such action. When hot work is being done in the Harbor, the United States Coast Guard Marine Safety Officer on duty at the time and the Harbor Master shall be immediately notified.

8.18 Bunkering:

- a. At least four hours prior to bunkering vessels at any wharf or berth, the supplier shall first obtain permission from the Harbor Master.
- b. The United States Coast Guard Marine Safety Office must be notified at least four hours in advance for bunkering operations at anchorage for all vessels with a capacity greater than 250 barrels of oil (refer 33 C.F.R. 156).
- c. During bunkering operations in which bunkers are being taken through an open fuel intake or from a fuel tank truck, where a fire hazard may exist, cargo operations shall cease. This shall not apply when bunkers are taken from a pipeline connected by gasketed joints directly to the vessel piping system. However, the Harbor Master or Safety Officer may direct that operations be discontinued when an oil spill occurs (as from a broken hose or ruptured gasket) or if a potentially hazardous situation exists.
- d. No welding, burning, or other types of work that may create hazardous conditions shall be permitted while bunkering operations are in progress. This

time period shall commence from either (a) the tank truck arrives onto the wharf, or (b) when a hose is hooked up to the wharf's fuel line, or (c) the vessel's bunkering connection is opened. The time period shall cease when either (a) the tank truck is off the wharf, or (b) the wharf and vessel fuel connections have been secured.

- e. The mooring lines of the vessel shall be checked prior to the bunkering operation to ensure they are secure and to prevent any surging.
- f. Prior to any fuel line hook-up being made or a fuel hose stretched to a vessel, a grounding line shall be connected from the vessel to the wharf. This grounding line should be connected first to the vessel and then connected to the shore ground.
- g. Except when bunkers are taken from a pipeline connecting through the gasketed joints directly to the vessels piping system, all engines, motors, fans and other devices liable to produce sparks located closer than fifty (50) feet shall cease operation. On small craft, such as fishing boats and pleasure boats, all ports, windows, doors and hatches shall be closed.
- h. Only intrinsically safe flash lights may be used during bunkering operations.
- i. Drip pans will be placed under all points where fuel could leak onto either the wharf, decks, or into the harbor, and scuppers shall be blocked to prevent fuel from escaping into the Harbor.
- j. There shall be no smoking, lighting of matches, lighters or use of other devices producing sparks or flame or the throwing of switches (other than certified non-sparking types) on all vessels bunkered at berths.
- k. No unauthorized persons shall be allowed either on board the vessel, or in the immediate vicinity of the bunkering point.
- l. When a hose and nozzle are used during bunkering operations, the nozzle must be kept in continuous contact with the vessel's fuel intake opening to eliminate the possibility of static sparks.
- m. For all vessels with a capacity greater than 250 barrels of oil, a person in charge with the proper endorsement required by 33 C.F.R. 155.700 shall be stationed in

the vessel by the fuel intake at all times while the discharge operation is in progress. For all transfers to U.S. or foreign vessels, in accordance with 33 C.F.R. Part 156.120, the vessel and facility person in charge shall both be stationed at the site of the transfer operation while the operation is in progress. Such person should have a good command of the English language in order to communicate with shore personnel. Should there be no one in the crew capable of this, an interpreter must be present during the entire fueling operation.

- n. Upon completion of the taking of bunkers, all shore connections must be closed and the vessel's filling lines closed prior to disconnection of the grounding lines. The grounding lines shall be disconnected from the shore first, then from the vessel.
- o. Any spilled oil or fuel shall be cleaned up immediately. The vessel should be ventilated thoroughly before the opening of doors, hatches, portholes, etc., or the operating of any spark producing mechanism, to dispel any fumes for at least five minutes before resuming normal operations. On small craft such as fishing boats and pleasure craft, particular attention should be paid to ensuring that fumes have not accumulated in the bilges, hatches, or other below deck spaces.
- p. The Harbor Master shall be notified upon completion of all bunkering operations.
- q. Compliance is also required with all other federal and territorial laws and regulations pertaining to bunkering, not specifically mentioned above, such as the flying of a red ("Baker") flag.

9.0 USE OF WHARVES

- 9.1 Cleanliness of Wharves:** All wharves, sheds and open areas which may be used for the handling of cargo shall be kept in a clean and sanitary condition and free from all obstructions.
- 9.2 Charges for Cleaning Wharves Assessed Against Vessel:** In cases where the Port Authority takes over the cleaning of wharves, sheds or open areas, a charge shall be

computed as the total cost of labor and/or materials used and shall be assessed against the vessel which is responsible for the cleaning.

9.3 Identification of Owner of Mobile Equipment: The owner and lessor, if under lease, of all mobile equipment used on any property under the control of the Port Authority in connection with the handling of cargo or shipping containers, such as forklifts, cranes, tractors, straddle trucks, chassis or other equipment, shall be clearly identified on such equipment.

9.4 Admittance of Vehicles into Port Area: No vehicles shall be admitted upon any wharf or in any other area used for the storage of cargo except for the purpose of delivering or picking up freight, unless the owner thereof has been granted a permit by the Port Manager or the Harbor Master.

9.5 Speed of Vehicles in Port Area:

- a. Trucks and other vehicles entering upon a wharf for the purpose of delivering or picking up freight shall not be driven at a speed greater than ten (10) miles per hour. Mobile equipment used in the handling of freight during cargo loading and unloading operations shall be under the direct supervision of a stevedoring foreman and shall not be operated at a speed greater than ten (10) miles per hour.
- b. Trucks and other vehicles operating in Container Yards shall not be driven at a speed greater than fifteen (15) miles per hour.
- c. Vehicles on roadways adjacent to wharves and pier sheds shall not be driven at a speed greater than fifteen (15) miles per hour, unless otherwise indicated by appropriate traffic signs.

9.6 Motor Vehicle to be Equipped with Fire Extinguisher: All vehicles entering upon Port Authority facilities shall have a fire extinguisher. Vehicles used to convey the sick or the infirm, ambulances and vehicles of hospitals and/or the health or police departments, and other

vehicles used for official government business, may enter upon wharves without a fire extinguisher.

9.7 Paragraphs 9.5 and 9.6 Not to Apply to Vehicle Being Shipped: The provisions of Section 9.5 and 9.6 shall not apply to vehicles left on a wharf for the purpose of shipping the same on any vessel, nor shall they apply to any vehicle which has been discharged as freight.

9.8 Fowl, Animals or Livestock on Wharves: No fowl, animal or livestock of any kind shall be allowed to remain on any wharf for a period longer than six (6) hours without being fed and watered. After any fowl, animal or livestock shall have been unloaded on a wharf, it shall be removed from the same within twenty-four (24) hours. No shipment of fowl, animal or livestock subject to quarantine shall be unloaded from a vessel unless cleared by the Department of Agriculture, or unless arrangements have been made for acceptance for quarantine. All such fowl, animals and livestock requiring quarantine shall be removed from the wharf within eighteen (18) hours. All expenses incurred in the care and maintenance of fowl, animals or livestock while on a wharf shall be paid by the consignees thereof, and the Port Authority shall have a lien upon same until all expenses are paid.

9.9 All Vehicles Subject to Orders of the Harbor Master: All vehicles operating on any wharf shall be subject to the orders of the Harbor Master.

9.10 Placement of Goods and Equipment: Any person handling goods or using equipment on a wharf, or bringing goods thereon for shipment, shall place, store or stack such goods or equipment in such a way as not to be an impediment to approaches to the wharf, nor an obstacle to the removal of other goods, nor cause damage to the wharf. No goods shall be so placed as to restrict or prevent the use of mooring bitts, cleats, bollards or other devices used for mooring purposes. No goods shall be so placed as to restrict or prevent the use of tracks, water connections, fire hydrants, gutters, oil and bunker connections, or drains.

9.11 Closing of Wharves: The Harbor Master may close any wharf, or any portion thereof, or restrict the use of the same whenever in his *opinion such closure or restriction is necessary to ensure the safety, health or welfare of the public.* No person shall enter whenever in his opinion it is advisable to do so. No person shall enter upon a wharf so closed or restricted without the permission of the Harbor Master.

9.12 Suspension of Port Operations:

- a. The Port Manager or Harbor Master may order the suspension of any loading or unloading operation, bunkering repairs or other operations when in his *opinion such suspension is necessary to ensure the safety, health or welfare of the public.*
- b. At the request of any other agency or department, the Port Manager or Harbor Master may order the suspension of operations upon a wharf to ensure the safety, health or welfare of the public, or for law enforcement purposes.

9.13 Handling of Goods on Wharf - Responsibility for Damaged Freight Due to Weather Conditions: It is the responsibility of shipping companies, owners and consignors to ensure that freight is adequately protected from weather damage while same is stored on wharves. This responsibility will include provision of adequate covering, closing of all openings such as *outside doors, windows and inspection openings,* and the placing of freight on pallets or dunnage so that it will not be damaged by moisture from the shad floors. The Port Authority shall not be responsible or liable for damaged freight due to inadequate weather protection.

9.14 No Landing of Items That Can Cause Damage: No goods or articles of any description which are likely to cause damage to property or injury to persons shall be landed, discharged or unloaded upon any wharf without the prior permission of the Harbor Master.

- 9.15 Rubbish, Ashes or Refuse on Wharves:** No person shall place or leave any ashes or rubbish on any wharf except in areas designated for that purpose, without the permission of the Harbor Master.
- 9.16 Objectionable Materials on Wharves:** No objectionable materials such as decaying or putrefying vegetable matter, manure, or bedding straw shall be left on any wharf. All such material shall be removed immediately.
- 9.17 Dead Animals on Wharves:** No dead animal shall be left on any wharf, in the waters or on the shores of any harbor or upon any reef adjacent to any such harbor without the permission of the Harbor Master.
- 9.18 Dead Animals in Water:** No dead animal shall be moved through the waters of any harbor without the consent to the Harbor Master.
- 9.19 Goods Unfit to Remain on Wharves:** Any freight which, in the opinion of the Harbor Master, is unfit to remain upon any wharf, or which may be harmful to other freight on such wharf shall, if necessary, be removed by the Harbor Master at the expense of the owner or consignee.
- 9.20 Rubbish, Swill, Garbage Placed in Harbor:** No rubbish, swill, garbage or refuse shall be thrown, washed overboard or placed in the Harbor or on any wharf.
- 9.21 Ballast, Etc., Landed on Shores of Harbor:** No ballast, rock, stone, slate, slag, gravel, sand, earth, cinders, rubbish, filth, garbage, or other noxious substance shall be deposited on any of the shores, property or facilities under the control of the Port Authority, unless approved by the Port Manager.
- 9.22 Ballast, Etc., Procedures For Landing:** When any ballast, rock, stone, sand, fertilizer, grain, or other loose material is being handled between a vessel and any wharf or

wise-versa, or between two vessels within any harbor, a canvas chute or other means satisfactory to the Harbor Master shall be used to prevent any part of the material being handled from falling into the Harbor or onto the wharf.

10.0 PRIVATE ACTIVITIES

10.1 Private Use of Port Authority Property and Facilities:

- a. **General Statement:** No use of any property or facility owned or controlled by the Port Authority for commercial or personal purposes is permitted, except as authorized by these Rules and Regulations.
- b. **Business Activities:** No person shall engage in any business or commercial activity (including commercial sub-leases) on Port Authority-owned or controlled property without the prior written approval of the Port Manager.

10.2 Non-Commercial Activities:

- a. The following activities are prohibited on or within any Port Authority property or facility if conducted by a person to or with passers-by in a continuous or repetitive manner:
 - i. The sale or distribution of any merchandise including, but not limited to, jewelry, food stuffs, candles, flowers, badges and clothing.
 - ii. The sale of flyers, brochures, pamphlets, books or any other printed or written material.
 - iii. The solicitation and receipt of funds.
 - iii. The sale of any service.
 - iv. The sale of any raffle ticket or entry in a game of chance.
 - vi. The conduct of a game of chance.
- b. The continuous or repetitive distribution of flyers, brochures, pamphlets, books or any other printed or written material is prohibited unless conducted pursuant to the following provisions of this rule:

- i. Each person distributing literature or any other material on behalf of himself or herself, another individual or an organization, must hold a valid leafleting permit and conduct the activity in conformity with applicable laws, regulations and terms of the permit. Each leafleting permit shall describe the material to be distributed and location where it may be distributed.
- ii. Each time a person enters Port Authority property or facilities to distribute literature pursuant to this rule, he or she must report his arrival to the Port Manager and sign in prior to distributing literature. If a leafleting permit has not been issued by the Port Manager pursuant to Section b(i) above, the person will not be permitted to distribute literature pursuant to this rule. Each time a person leaves the Port Authority property or facility, after distributing literature, he or she must report such departure to the Port Manager and sign out upon cessation of distribution of literature.
- iii. Permits for distribution of literature will be issued on a first-come, first-served basis. Each person distributing literature on behalf of an organization must display an identification badge that states the name of the organization or person represented. The badge will be worn on the upper left breast of the outermost garment and be clearly visible.
- iv. The distribution of literature pursuant to this rule is permitted only at the locations designated in Section c(vi) below. Access to these locations will be granted on a first-come, first-served basis each day upon request. No more than three representatives of a single organization or person are permitted to distribute literature at any one location at any one time.
- v. A table may be used in connection with the distribution of literature pursuant to this rule in the following manner only: Only one table, which may not exceed 52 inches in length and 30 inches in width, may be used at each location.
- v. The distribution of literature shall be conducted only between the hours of 10:00 A.M. to 5:00 P.M.

- vii. The Port Manager may prohibit the distribution of literature otherwise permitted by this rule in the event of a tropical storm or typhoon, vessel accident, vessel delay, power failure, transportation strike or other event or condition under which the distribution of literature in such space creates a danger to persons or property, interferes with the orderly formation and progression of waiting lines, or interferes with any of the following: pedestrian and/or vehicular travel; the issuance of tickets or boarding passes or equivalent documents for sea or ground transportation; luggage or cargo movement or handling; the entry to and exit from vessels or vehicles; security procedures; government inspection procedures; cleaning, maintenance, repair or construction operations.
- c. The sale of any written or printed matter and the solicitation of funds from the general public for non-commercial purposes (herein called "solicitation activities") are prohibited unless conducted outside the Administration Building and in full compliance with the following provisions of this rule:
 - i. Each person conducting a solicitation activity must hold a valid solicitation permit issued by the Port Manager and conduct the activity in conformity with applicable laws, regulations and the terms of the permit. Each solicitation permit shall describe the activity authorized and the area in which it may be conducted.
 - ii. Each person who seeks to engage in a solicitation activity on Port Authority property may do so only in connection with religious expression or as a representative of a non-commercial organization. Each such person shall immediately be given a single permit upon submission of an application, signed by the applicant, containing the following:
 - (1) The applicant's name, address and telephone number.
 - (2) The name, address and telephone number of the organization that the applicant represents, and a letter or other documentation that the applicant has authority to represent that organization

(submission of this document is not required of an individual who is not representing an organization).

- (3) The name and title of the person in the organization who will have supervision of and responsibility for the activity at the Port Authority, if applicable.
- (4) Statement that the sale of printed matter and/or the solicitation of funds is for a non-commercial purpose.
- (5) One of the following:
 - (a) A statement signed by the applicant that the applicant represents, and will be soliciting funds or selling written or printed matter for the sole benefit of, a religion or religious group.
 - (b) A statement signed by the applicant that the applicant represents, and will be soliciting funds or selling written or printed matter for the sole benefit of a political organization, a function of which is to influence the nomination, election, or appointment of one or more individuals to federal, state, or local public office; to influence federal, state, or local legislation; or to advocate issues or causes to the public.
 - (c) A statement signed by the applicant that the applicant's organization has received an official Internal Revenue Service (IRS) ruling or letter of determination stating that the organization or its parent organization qualifies for tax-exempt status under 26 U.S.C. 501(c)(3), (c)(4), or (c)(5).
 - (d) A statement signed by the applicant that the applicant's organization has applied to the IRS for a determination of tax-exempt status under 26 U.S.C. 501(c)(3), (c)(4), (c)(5), and that the IRS has not yet issued a final administrative ruling or determination on such status.

- (e) A statement signed by the applicant that the applicant's organization has on file with the Department of Revenue and Taxation, Government of Guam, a current registration statement in accordance with Section 651 et seq. of the Civil Code of Guam.
- iii. Failure to submit all the information required by paragraph (b) of this section shall result in denial of a solicitation permit. Upon submission of a completed and signed application, a solicitation permit shall be issued unless all available permits have been issued to prior applicants.
- iv. Applications for solicitation permits must be submitted to the Port Manager. Permits will be granted on a first-come, first-served basis. The areas will be assigned on a first-come, first-choice basis. The permits are not transferable except among individuals who have completed and submitted applications for the same permit.
- v. Each solicitation permit shall authorize the holder to conduct a fund-raising activity for a period of up to forty-eight (48) hours. Permits shall not be extended or renewed. After the expiration of the permit a new solicitation permit may be issued to the former permit holder upon request or submission of a new application respectively. In such a case, applicants may be permitted to incorporate by reference any required documentation filed with a previous application.
- vi. Each permit shall specify the area in which the solicitation activity may be conducted by the permit holder. Permits shall be issued for the following areas up to the maximum number indicated:
 - (1) The sidewalk in front of the main entrance and main exit of the Administration Building - - five (5) permits;
 - (2) The sidewalk in front of the entrance and exit to the Port Terminal - - five (5) permits.

- (3) The sidewalk in front of the Board of Directors Office - - five (5) permits.
- vi. Nothing in this part shall be construed as impairing or expanding any right which a Port Authority lessee may otherwise have, by virtue of its leasehold interest in Port Authority property or facilities, premises, to regulate access to those areas under its exclusive control.
- vii.

10.3 Prohibited Conduct Relating to Non-Commercial Activity: No person may conduct any non-commercial activity within or outside a Port Authority building or facility:

- a. Without a permit or with a permit that has expired.
- b. With a permit issued upon an intentionally false application.
- c. With a permit outside the area designated on the permit.
- d. Within ten (10) feet of the following:
 - i. A security screening point,
 - ii. Premises leased for the exclusive use of a concessionaire,
 - iii. Restroom facilities,
 - iv. A stair, escalator or elevator,
 - v. A doorway or entrance way,
 - vi. A motor vehicle with embarking or disembarking passengers,
 - vii. A public service information counter,
 - viii. A food court or the area adjoining a food or beverage facility, and
 - ix. Persons waiting in line at any of the above listed areas.
- e. If a person representing the non-commercial organization is selling written or printed matter or soliciting funds without wearing or displaying, in a conspicuous manner, a solicitation permit and the name of the organization that the person represents.
- f. By intentionally touching or making physical contact with another person, or the vehicle by which the person is occupying, unless that other person has consented to such physical contact.
- g. By use of a loudspeaker, sound or voice amplifying apparatus.

- h. By setting up a table, counter or stand without the written permission of the Port Manager.
- i. By leaving any item unattended.
- j. By attaching any placard, sign, circular or other written material on any wall, post, counter, billboard or other surface.
- k. By performing any ceremony, speech, song, carrying of any sign or placard, or other such activity which constitutes a danger to persons or property, or which interferes with any of the following: the orderly formation and progression of waiting lines; passenger, pedestrian and/or vehicular travel; the issuance of tickets or boarding passes or equivalent documents for sea or ground transportation; luggage or cargo movement or handling; the entry to and exit from vehicles; security procedures; government inspection procedures; cleaning, maintenance, repair or construction operations.

11.00 HARBOR ACTIVITIES

11.1 Hazardous Floating Objects in Harbor: Whenever the disposal, salvage or transportation of a derelict craft, vessel or other object of any size, type or description, might, if sunk, lost or abandoned in the harbors, channels, shores or waters of Guam become hazardous to navigation, to dredging or to other operations of the Guam or federal governments, or the public, the written permission of the Harbor Master shall be obtained before taking such action.

11.2 Sinking in Navigable or Off-Shore Waters: No vessel or other object of any size, type or description shall be let lose, sunk, dropped or abandoned in or on the navigable waters or shores of Guam. In the event of such occurrence, the Harbor Master shall be immediately notified and the owner shall take such action as is necessary for removal of the object. If the owner fails to take action to remove the object, the Port Authority will take such actions as are necessary for such removal and will charge all costs incurred to the owner. The Harbor Master may require the posting of a bond to assure such payment.

11.3 Connecting Up of Vessels to Water Supply System:

- a. No person shall connect a vessel's water supply system, siphon or other water-operated device, equipment or mechanism to a potable water supply system, or operate any water-operated device, equipment or mechanism connected to the water supply system, unless an approved back flow prevention device has been installed at the faucet or other point of connection. An "approved backflow prevention device" means a backflow prevention device that meets the requirements contained in Standard 1001, American Society of Sanitary Engineers or the Uniform Plumbing Code adopted by the International Association of Plumbing and Mechanical Officials (IAPMO).
- b. No connection may be made from any vessel's water supply system to a dockside water supply system without the written permission of the Harbor Master.
- c. No potable water may be supplied from a dockside water supply outlet without the use of a water meter.

11.4 Dumping of Sinkable Materials: All dumping at sea of sinkable objects or material is prohibited, unless permitted by law. Letting loose of floating objects in the Harbor is strictly prohibited.

11.5 Dredging and Removal of Sand, Gravel, Rock, Etc. No dredging shall be performed, or any sand, gravel, coral, rock or top soil removed from any areas under the control of the Port Authority, without the written permission of the Port Manager.

11.6 Construction of Structures: No buildings or structures of any nature whatsoever shall be erected or constructed on Port Authority property, nor shall existing structures be modified, without obtaining the written permission of the Port Manager and the approval of any other governmental agency as required by law. In general, approval will be dependent on an agreement to return the property to its original state when vacating the property or premises if requested to do so by the Port Authority.

12.0 SMALL CRAFT

12.1 Small Craft Moorings:

- a. The Harbor Master may, consistent with applicable federal and Guam laws and regulations, establish and allocate berths and moorings for small craft in Apra Harbor.
- b. Priorities for berthing and mooring in Apra Harbor shall be as follows:
 - i. Commercial fishing boats, or boats hauling commercial fish cargoes;
 - ii. Charter boats;
 - iii. Other commercial craft; and
 - iv. Recreational craft.
- c. Berths shall be made available only when not required for large, commercial ocean-going vessels, or government owned/operated vessels, or for vessel for which prior long-term commitments have been made.
- d. Exceptions to the priorities in Section b. above may be made if the Port Manager or Harbor Master believes that it is in the best interests of public safety, health and welfare.
- e. No vessel shall make fast to, moor, dock, anchor at or lay alongside any Port Authority controlled pier, wharf, quay, bulkhead, landing, dolphin, mooring or other moored vessel or anchored vessel in areas under the control of the Port Authority without the prior authorization of the Harbor Master.
- f. Any such vessel may be removed by direction from the Harbor Master.
- g. Any costs incurred by the Port Authority in removing such vessels shall be for the account of the owner, master, agent, or operator of the vessel.
- h. Separate rules governing small craft use of, and navigation within, marinas, boat basins and other recreational boating facilities (i.e., Hagatna Boat Basin and Agat Small Boat Harbor) may be promulgated and should be consulted by the owners and operators of small craft in those facilities. In the event of any conflict between these Rules and Regulations and such separate rules, the latter shall govern the use of, and navigation within, those facilities.

- i. **Small Craft Mooring Permit/Request:** Any interested person, corporation, or other legal body may apply for a mooring permit by completing in full the application provided by the Harbor Master. In the case of a legal body, association, or other organized body, evidence of corporate existence and authority to submit that application shall be provided to the Harbor Master.
- j. **Issuance of a Mooring Permit:** A small craft mooring permit shall be issued on a first-come, first-served basis for a period not to exceed seventy-two (72) hours when (a) a completed application has been submitted, (b) an agreement has been executed, (c) an adequate berthing or mooring facility becomes available, (d) the vessel is in an operating condition and capable of operating beyond the confines of the harbor or other mooring facility on a regular basis, and (e) all required fees and charges have been paid.
- k. **Cancellation of Mooring Permits:** Mooring permits may be canceled for any of the following reasons: (a) the vessel berthed or moored is being used for illegal purposes, (b) the vessel constitutes a hazard to the Port Authority and/or vessels in the vicinity, (c) the permit has expired, (d) the vessel has been abandoned, (e) the vessel's owner, operator, charterer or lessee has been convicted of a crime relating to such vessel, or (f) violation of any federal or Guam laws or regulations by such vessel.

12.2 Waterskiing, Operation of Personal Watercraft, Parasailing and Windsurfing Prohibited in Certain Areas: The above activities are prohibited within one hundred feet (100') of the following areas: (a) any berth, wharf, fairway, pier or quay; (b) any bridge, (c) any beach or other area set aside for swimming or bathing; and (d) any other areas designated by the Port Manager to protect public safety, avoid hazards to navigation, or prevent interference with Port Authority operations.

12.3 Fishing Prohibited in Certain Areas: Catching of fish in the Harbor by any means or method is prohibited in the following areas: (a) all approaches to berths, wharves, channels, fairways, quays; (b) all berths where operations are in progress, such as the

commercial piers and wharves, or where dredging is taking place; (c) off any bridges; (d) at or near any beaches specifically set aside for swimming or bathing; (e) any other areas designated by order of the Port Manager to protect public safety, avoid hazards to navigation, or prevent interference with Port Authority operations.

12.4 No Consumption of Alcoholic Beverages: Alcohol consumption in any facility under the jurisdiction of the Port Authority is strictly prohibited.

- a. Persons under the influence of alcohol or controlled substances are prohibited from entering into any wharves, piers, sheds, roads, or open areas owned or controlled by the Port Authority.
- b. The Port Authority specifically and categorically disclaims any liability for any accident incurred by persons under the influence of alcohol or controlled substances.
- c. Any damage to property and facilities owned or under the control of the Port Authority caused by persons under the influence of alcohol or controlled substances shall be repaired or replaced by the Port Authority, and will charge all costs incurred to the person responsible.

12.5 Safe Navigation in Apra Harbor: Recreational vessels operating in the Harbor shall adhere to the following Standards of Care to ensure safe operation:

- a. Ensure vessel is safe before getting underway.
- b. Ensure vessel is seaworthy.
- c. Keep flares and distress calling equipment readily accessible.
- d. Be extra careful in bad weather.
- e. Avoid passing large vessels close aboard. Recreational vessel operators need to be aware that large vessels are severely limited in their ability to stop or alter course; that they are limited in their ability to sight small vessels due to blind spots that may extend more than one-half mile ahead; and that they cannot easily avoid a collision with a smaller recreational vessel.
- f. Pass tugs with caution.

- g. Know where the traffic lanes, fairways and the regulated navigational areas are located.
- h. Know how and when to monitor VHF channels 13, 14 and 16.
- i. Know your vessel's position at all times.
- j. Be an informed mariner:
 - Learn the maritime "Rules of the Road"
 - Read Coast Guard notices to mariners
 - Monitor the weather and weather forecasts
 - Listen to channel 16 for Coast Guard broadcasts.