

Port Authority of Guam

Harbor Rules and Regulations



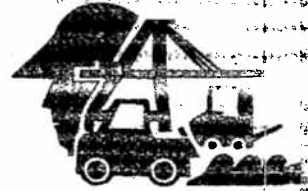
Adopted by the Board of Directors
Port Authority of Guam on
June 9, 2000

Signed into Public Law 26-72
December 27, 2001



PORT AUTHORITY OF GUAM
ATURIDAT I PUETTON GUAHAN
Jose D. Leon Guerrero Commercial Port
GOVERNMENT OF GUAM

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FELIX P. CAMACHO
Governor of Guam

KALEO S. MOYLAN
Lieutenant Governor

July 23, 2004

MEMORANDUM

TO: All Port Tenants, Shipping Agents, Employees
CC: Captain of the Port, US Coast Guard
FROM: General Manager
SUBJECT: Interpretation of Harbor Rule 7.2, Use of Tugs

As part of a Stipulated Judgement issued by the Superior Court of Guam on June 14, 2004, the Port will implement a new interpretation of Harbor Rules and Regulations Rule 7.2, which states: "A tug boat (or tugs) shall be used by all commercial vessels, exceeding two hundred feet in overall length entering, leaving, or operating within the Harbor, except research vessels and vessels up to three hundred (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."

The new interpretation of Rule 7.2 will be: A tug shall be used by all commercial vessels exceeding two hundred fifty (250) feet, except by research vessels less than or equal to three hundred and fifty (350) feet equipped with an operational bow thruster and all other vessels less than or equal to three hundred (300) feet in overall length equipped with an operational bow thruster.

This new interpretation takes effect immediately. Should you have any questions please feel free to contact this office or the office of the Harbor Master at ext. 330.

JOSEPH F. MESA



FELIX P. CAMACHO
Governor of Guam

KALEO S. MOYLAN
Lieutenant Governor

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Cabras 7/24/04

Angth - 7/26/04
Rec - 7/26/04
MSA 7/26/04

[Signature]
JOSEPH F. MESA

Tobias Percy Theisen
Matson

7-26-04

M4/1-ABS

7/26/04

145 7/26/04



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 Aspinall 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

0633

OFFICE OF THE LEGISLATIVE SECRETARY

ACKNOWLEDGMENT RECEIPT

Received By 

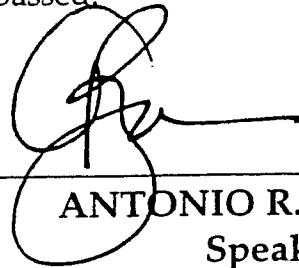
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Date 12/27/01


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

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

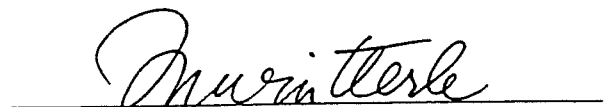
This is to certify that Substitute Bill No. 159 (COR) "AN ACT TO ADOPT HARBOR RULES AND REGULATIONS FOR THE PORT AUTHORITY OF GUAM," was on the 7th day of December, 2001, duly and regularly passed.


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'lahi'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:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan*

finds that the Port Authority of Guam's Harbor Regulations were last
updated and approved in 1978. Though those rules have served Guam for
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

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.**

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 standby 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 shed 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.