

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

CHAPTER 2
CUSTOMS AND QUARANTINE

- Article 1. Customs and Quarantine Regulations.
- Article 2. International Health Regulations.
- Article 3. National Traffic and Motor Safety Act of 1966.
- Article 4. Container Freight Stations & Inspections.
- Article 5. Customs, Agriculture, and Quarantine Inspection Services Charge.

ARTICLE 1
CUSTOMS AND QUARANTINE REGULATIONS

NOTE: The Governor retains Organic Act authority to periodically examine the organization of the Executive Branch of the government of Guam and to carry out all changes necessary to promote effective management. See Organic Act of Guam, §§ 6 and 9(c), codified at 48 U.S.C. § 1422 and 48 U.S.C. § 1422c, respectively.

Pursuant to this authority, the Port Security Division was created on October 16, 1952. Executive Order Number 71-21 (Sept. 24, 1971) changed the name and organization of the Port Security Division to the Customs and Quarantine Division, Department of Commerce. Pursuant to P.L. 22-122:2 (April 11, 1994), the Customs and Quarantine Division was established as a separate agency. See 5 GCA § 3127 and 5 GCA Chapter 73.

The Customs and Quarantine Agency is responsible for the administration and enforcement of customs regulations, both federal and local, that have statutory force and effect in Guam. The local regulations are promulgated by the agencies responsible for their oversight.

The Customs and Quarantine Agency is delegated, in cooperation with other agencies of the government of Guam, the powers and duties for the enforcement and administration of certain laws and regulations which pertain to the control and quarantine of plants and animals, inspection of food stuffs, the control of communicable diseases and the importation of controlled substances (drugs) and other matters as may be assigned to it.

§ 2100. Rules and Regulations Incorporated By Reference.

Rules and regulations governing customs and quarantine are incorporated herein by reference.

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

(a) Importation of Plants and Plant Products. (Regulations for the importation of plants and plant products can be found in Title VIII, Food and Agriculture, Division II, Chapter 1, Subchapter A, Guam Admin. Rules.)

(b) Requirements for Introduction of All Species of Animals into the Territory. (Regulations for the introduction of all species of animals into the Territory can be found in Title VIII, Food and Agriculture, Division II, Chapter 2, Subchapter A, Guam Admin. Rules.)

(c) Control of Animals and Animal Diseases within the Territory. (Regulations for the control of animals and animal diseases can be found in Title VIII, Food and Agriculture, Division II, Chapter 2, Subchapter B, Guam Admin. Rules.)

(d) Public Health Quarantine Regulations. (Quarantine regulations of the Department of Public Health and Social Services can be found in Title XIX, Public Health and Social Services, Division I, Chapter 4, Subchapter D, Guam Admin. Rules.)

(e) Customs Regulations. (Customs regulations of the Department of Commerce can be found in 5 GCA Chapter 73.)

ARTICLE 2
INTERNATIONAL HEALTH REGULATIONS

§ 2200. Rules and Regulations Incorporated Herein By Reference.

The International Health regulations are incorporated herein by reference. (Regulations can be found in Title XIX, Public Health and Social Services, Division I, Chapter 4, Subchapter A, Guam Admin. Rules.)

ARTICLE 3
NATIONAL TRAFFIC AND MOTOR SAFETY ACT OF 1966

- § 2300. Standards Prescribed By the Department of Transportation.
- § 2301. Requirements for Entry and Release.
- § 2302. Release under Bond.
- § 2303. Merchandise Refused Entry.
- § 2304. Disposition of Merchandise Refused Entry into Guam; Redelivered Merchandise.

NOTE: Federal Motor Vehicle Safety Standards (FMVSS) have been promulgated by the U.S. Department of Transportation in 23 CFR Part 255 pursuant to the provisions of the National Traffic and Motor Vehicle Safety Act of 1966. (Public Law 89-563) Whereas the National Traffic and Motor Vehicle Safety Act of 1966 applies to Guam and regulations are necessary and desirable to cover the importation of motor vehicles and items of motor vehicle equipment to insure compliance with the Act, the Governor of Guam established the following regulations through Executive Order Number 68-19 and by virtue of the authority vested in him by the Organic Act of Guam.

§ 2300. Standards Prescribed By the Department of Transportation.

Motor vehicles and motor vehicle equipment manufactured on or after January 1, 1968, offered for sale, or introduction or delivery in interstate commerce, or importation into the United States are subject to Federal Motor Vehicle Safety Standards (hereafter referred to in this Section as “safety standards”) prescribed by the Secretary of Transportation under Sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. §1392, §1407) as set forth in regulations in 23 CFR. A motor vehicle (hereafter referred to in this Section as “vehicle”) or item of motor vehicle equipment (hereafter referred to in this Article as “equipment item”), manufactured on or after February 1, 1968, is not permitted entry into Guam unless (with certain exceptions set forth in Paragraph (b) of this Article it is in conformity with applicable safety standards in effect at the time the vehicle or equipment item was manufactured.

§ 2301. Requirements for Entry and Release.

(a) Any vehicle or equipment item offered for importation into Guam shall not be refused entry under this Article if:

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

(1) it bears a valid certification as required by Section 114 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1403) and regulations issued thereunder by the Secretary of Transportation (in the case of a vehicle, in the form of a label or tag permanently affixed to such vehicle or in the case of an equipment item, in the form of a label or tag on such item or on the outside of a container in which such item is delivered), or

(2) it is intended solely for export, such vehicle or equipment item and the outside of its container, if any, to be so labeled and tagged.

(b) Any such vehicle or equipment item not bearing such certification or export label shall be refused entry unless there is filed with the entry, in duplicate, a declaration verified by the importer or consignee which states that:

(1) Such vehicle or equipment item was manufactured on a date when there were no applicable safety standards in force.

(2) Such vehicle or equipment item was not manufactured in conformity with applicable standards but has since been brought into conformity, such declaration to be accompanied by the certificate of the manufacturer, contractor, or other person who has brought such vehicle or equipment item into conformity which described the nature and extent of the work performed; or

(3) Such vehicle or equipment item does not conform with applicable standards, but that the importer or consignee will bring such vehicle or equipment item into conformity with such standards; or

(4) Such vehicle is a new vehicle being imported for purposes of resale which does not presently conform to all applicable safety standards because readily attachable equipment items are not attached, but that there is affixed to its windshield a label stating the standard with which and the manner in which such vehicle does not conform and that the vehicle will be brought into conformity by attachment of such equipment items before it will be offered for sale to the first purchaser for purposes other than resale; or

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

(5) The importer or consignee is a member of the armed forces of a foreign country on assignment in the United States, or is a member of the Secretariat of a public international organization so designated pursuant to 59 Stat. 669 on assignment in the United States, or is a member of the personnel of a foreign government on assignment in the United States who comes within the class of persons for whom free entry of motor vehicles has been authorized by the Department of State and that he is importing such vehicle or equipment item for purposes other than resale. The importer or consignee shall declare that the import is in fact for a temporary period, such period to end on or about a certain date. If this period should extend beyond the specified date, the applicable standards shall be complied with, and the importer or consignee may be required to furnish a bond to insure such compliance; or

(6) The importer or consignee is importing such vehicle or equipment item solely for the purposes of show, test, experiment, competition repairs, or alterations and that such vehicle or equipment item will not be sold or licensed for use on the public roads.

(c) Any declaration given under this section shall state the name and address of the importer or consignee, the date and the entry number, a description of any equipment item, the make and model, engine serial, and body serial numbers of any vehicle or other identification numbers, and the city and state in which it is to be registered and principally located if known. The Director of Commerce shall immediately forward the original of such declaration to the Federal Highway Administration of the Department of Transportation.

§ 2302. Release under Bond.

If a declaration filed in accordance with Paragraph (b) of this Article states that the entry is being made under circumstances described in § 2301 (b)(2)(iii), the entry shall be accepted only if the importer gives a bond for the production of a statement verified by the importer or consignee that the vehicle or equipment item described in the declaration filed by the importer has been brought into conformity with applicable safety standards and identifying the manufacturer, contractor, or other person who has brought such vehicle or equipment item into conformity

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

with such standards and describing the nature and extent of the work performed. The bond shall be in the amount determined by the Director of Commerce. Within ninety (90) days after such entry, or such additional period as the Director of Commerce may allow for good cause shown, the importer or consignee shall deliver to the Director of Commerce the statement described in this Paragraph which the Director of Commerce shall forward to the Federal Highway Administration. If such statement is not delivered to the Director of Commerce for the port of entry of such vehicle or equipment item within ninety (90) days of the date of entry or such additional period as may be allowed by the Director of Commerce, for good cause shown, the importer or consignee shall deliver or cause to be delivered to the Director of Commerce those vehicles or equipment items, which were released in accordance with this Paragraph. In the event that any such vehicle or equipment item is not redelivered within five (5) days following the date specified in the preceding sentence, liquidated damages shall be assessed in the full amount of a bond given.

§ 2303. Merchandise Refused Entry.

If a vehicle or equipment item is denied entry under the provisions of § 2301 (b), the Director of Commerce shall refuse to release the merchandise for entry into Guam and shall issue a notice of such refusal to the importer or consignee.

§ 2304. Disposition of Merchandise Refused Entry into Guam; Redelivered Merchandise.

Vehicle or equipment items which are denied entry under § 2301 (b) or which are redelivered in accordance with § 2310 (c) and which are not exported under supervision within 90 days from the date of notice or refusal of admission or date of redelivery shall be disposed of; Provided, however, that any such disposition shall not result in an introduction into Guam of a vehicle or equipment item in violation of the National Traffic and Motor Vehicle Safety Act of 1966.

ARTICLE 4
CONTAINER FREIGHT STATIONS AND INSPECTIONS

- § 2400. Authority.
- § 2401. Definitions.
- § 2402. Policy.
- § 2403. Removal of Container Seal.
- § 2404. Sealing.
- § 2405. Tampering or Altering of Customs Seal.
- § 2406. Provisional Inspection Site.
- § 2407. Special Request.
- § 2408. Requirements for CFS Facility.
- § 2409. Documentation Requirement.
- § 2410. Inspection.
- § 2411. Prohibited or Restricted Items.
- § 2412. Penalties.
- § 2413. Investigation.
- § 2414. Payment of Charges and Fees.
- § 2415. Reviews and Audits.

§ 2400. Authority.

Pursuant to 5 GCA § 73144, the Director of Commerce is empowered to promulgate rules and regulations to carry out the purpose of Chapter 2, Title XLIV, Government Code. Such rules and regulations may prescribe the terms and conditions necessary to administer the functions of Customs & Quarantine of the Department of Commerce, Government of Guam in enforcing federal and local laws.

§ 2401. Definitions.

The following definitions and interpretations shall apply to this Article unless the text otherwise requires:

(a) *Container* means any method of conveyance used in the shipment or transportation of merchandise or goods in international traffic.

(b) *Container Freight Station (CFS)* means a structure designated for the receiving, handling or storage of cargo and that area within the surrounding perimeter fence.

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

(c) *Customs/Agricultural Seal* means a band, strap(s), button, tag, string, or adhesive tag used for the purpose of sealing/securing containers.

(d) *Customs Inspector* means any individual duly authorized by the Director to enforce the Customs and Quarantine laws and other applicable laws.

(e) *Department* means the Department of Commerce, Government of Guam.

(f) *Director* means the Director of Commerce.

(g) *Documentation* means bills of lading, airway bill, invoice(s), permit(s), certificate(s) and consumption entry permit(s).

(1) *Bill of Lading* - a receipt given by a surface carrier of goods accepted to be transported.

(2) *Airway Bill* - a receipt given by an airline for goods accepted for transportation.

(3) *Invoice* - a detailed list of goods sold or services provided together with the charges, description and quantity.

(4) *Consumption Entry Permit* - a permit for merchandise, usually valued over \$250.00, which is free of duty or upon which duty has been paid by the consignee or importer.

(h) *Guam Customs Territory* means the territory to which the customs laws of Guam are applicable.

(i) *Movement* means the act, process, or result of moving a container, commodity or goods from the port of entry.

(j) *Person* means a consignee, owner, declarant, partnership, corporation, or association which deals in the import and export of goods.

(k) *Provisional Inspection Site* means a temporary location which is approved by the Director of Commerce for the inspection of air or surface shipments of inbound cargo.

§ 2402. Policy.

The purpose of these rules and regulations is to facilitate and

movement and inspection of containers from the original port of entry to provisional inspection sites or to a CFS.

§ 2403. Removal of Container Seal.

Seals affixed on a container or cargo at the port of origin shall be removed only under Customs supervision.

§ 2404. Sealing.

Any container seal found broken after being unloaded from a vessel shall be reported immediately to a Customs officer and the Customs officer shall immediately reseal the container.

§ 2405. Tampering or Altering of Customs Seal.

The breaking or tampering with the Customs seal on a container prior to its official release from Customs custody, except under the direction of a Customs inspector, is in violation of 5 GCA § 73143.

§ 2406. Provisional Inspection Site.

(a) An importer may request for a container to be inspected at a provisional inspection site located at the owner's premises. Such inspection may be authorized by the Director of Commerce or Chief of Customs under the following conditions:

(1) The applicant is required to provide the following particulars:

(A) name, address, and telephone number of applicant.

(B) map to business establishment.

(2) The Special request shall be granted based on availability of Customs and Quarantine personnel (regular office hours).

(3) Requests will be entertained on a case- by-case basis.

(4) Priority will be given on a first-come-first-served basis.

(5) The owner or importer is responsible for providing adequate manpower and equipment of off-load goods in a timely manner for inspection.

(b) Any person(s) wishing to move a container to a provisional inspection site or CFS must submit Customs Form 30 to the Chief of

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

Customs or Director of Commerce for approval prior to movement of the container from the port of entry.

§ 2407. Special Request.

At the request of the declarant, Guam customs inspectors may permit goods to be cleared outside business hours, including Sundays and holidays, provided the owner/consignee pays Customs overtime services under 5 GCA § 73138.

§ 2408. Requirements for CFS Facility.

(a) An application for the operation of a CFS facility shall be submitted to the Department of Commerce, Customs & Quarantine Division, in order to verify the eligibility of the applicant and facility for approval. The application must contain the following:

(1) The applicant must submit a completed CFS facility application form (CQ Form 31).

(2) The person must attach a copy of a valid Government of Guam business license issued by the Department of Revenue & Taxation.

(3) A certified blueprint of the facility(ies) must be submitted with the application to the Director for approval.

(b) The facility shall be completely secured by a perimeter fence with a locked gate.

(c) The facility must have a safety area marked or zoned for cargo examination and adequate lighting so as to permit the inspector to conduct his examination, without straining his eyes.

(d) If approved, a permit will be issued within thirty (30) working days from the time the application is received.

§ 2409. Documentation Requirement.

The owner or importer shall submit the necessary documentation to the Customs Office prior to the inspection in order to facilitate the movement of goods to its destination for Customs inspection. Those documents are as follows:

(a) Bill of lading or airway bill.

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

- (b) Invoice.
- (c) Permit/Certificate.
- (d) Consumption entry permits if required.

§ 2410. Inspection.

Inspection shall be conducted and performed in accordance with Customs and Quarantine rules and regulations (see Art. 1 of this Chapter). Priority shall be given to perishable goods and other urgent consignments.

§ 2411. Prohibited or Restricted Items.

Any goods, articles, or merchandise found in any container which are prohibited or restricted will be seized by Customs pursuant to 5 GCA § 73101 or any other statute or rule or regulation prohibiting its entrance.

§ 2412. Penalties.

Should a seal on a container or cargo be broken or tampered with prior to its official release from Customs custody, except under the direction of a Customs Inspector, then the person or firm that has accepted delivery of the sealed container or cargo, shall be liable for the following administrative penalties levied by the Collector of Customs under 5 GCA § 73143.

- (a) A fine of not less than Twenty-Five Thousand Dollars (\$25,000.00) and the confiscation of the cargo involved; and
- (b) The suspension of the business license(s) of all principals involved in the violation of this action for one (1) year.

§ 2413. Investigation.

The Director may order an investigation to be conducted in the event that a sealed container is found opened.

§ 2414. Payment of Charges and Fees.

Any person(s) requesting Customs services as provided in these rules and regulations shall immediately make payment to the Customs and Quarantine Division for services rendered or upon receipt of customs bill. If payment is not received, services will no longer be provided until full payment is made.

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

§ 2415. Reviews and Audits.

The Director of Commerce or his designee may conduct from time to time periodic reviews and audits of CFS, sites [sic] and all documents relating to the handling of import and export merchandise.

ARTICLE 5
CUSTOMS, AGRICULTURE, AND QUARANTINE
INSPECTION SERVICES CHARGE

NOTE: The Director of the Customs and Quarantine Agency is authorized to promulgate rules and regulations necessary to carry out provisions of 5 GCA Chapter 73. See 5 GCA § 73144. Interim rules were established by E.O. 96-10 (Apr. 12, 1996), E.O.96-17 (June 27, 1996) and E.O. 98-11 (Feb. 28, 1998). Permanent rules were submitted to the legislature on August 20, 1996. Article 5 was amended by rules submitted to the Legislature on February 10, 2011, which became effective May 11, 2011, pursuant to 5 GCA Chapter 9 (Administrative Adjudication Law).

- § 2500. Purpose.
- § 2501. Authority.
- § 2502. Scope.
- § 2503. Definitions.
- § 2504. Service Charge Facilities.
- § 2505. Service Charges.
- § 2506. Service Charge Review.
- § 2507. Exemptions for Cargo and Sea Passengers.
- § 2508. Assessment, Collection, and Remittance.
- § 2509. Payments and Penalties.
- § 2510. Reimbursements and Fund Allocations.
- § 2511. Severability Clause.

§ 2500. Purpose.

The purpose of these rules and regulations are to carry out the provisions of Title 5, Chapter 73, Sections 73145 through 73151 of the Guam Code Annotated and establishing guidelines by which Customs, Agriculture, and Quarantine Inspection Service Charges and their requirements are applied, assessed, and executed.

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

§ 2501. Authority.

These rules and regulations are promulgated pursuant to Public Law 23-45, and Title 5, Chapter 73, Sections 73145 through 73151 of the Guam Code Annotated.

§ 2502. Scope.

These rules and regulations shall govern procedures, requirements, and applications of the Customs, Agriculture, and Quarantine Inspection Service Charges and parties thereto involved, and shall replace all such guidelines established for this program in effect prior to the effective date of these regulations.

§ 2503. Definitions.

Whenever in these rules and regulations the following terms are used, unless the context otherwise requires, they shall be construed, respectively, to mean:

(a) *Agency* means the Customs and Quarantine Agency of the Government of Guam.

(b) *Agent* means a person or party who is authorized to act for or on behalf of another.

(c) *Arrival* means those persons, passengers, aircraft, vessels, and/or cargo entering the Territory of Guam from a place outside.

(d) *Cargo* means merchandise or goods entered into the Territory of Guam from a place outside, including passenger baggage using Customs, Agriculture, and Quarantine Inspection services at a cargo service charge facility.

(e) *Carrier(s)* means vessels, aircraft, and/or their legal representative who engage in the transportation of crew, passengers and/or cargo, whether or not for a fee.

(f) *Carrier Bill of Lading* means a written receipt given by a carrier for goods accepted for transportation, and used for the purpose of entering consignments of cargo into the Territory of Guam and obtaining clearance by the service agencies.

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

(g) *Collector* means the Customs and Quarantine Agency, the Antonio B. Won Pat Guam International Airport Authority, or their agents.

(h) *Consignee* means the person entering consignments of cargo into the Territory of Guam, whether or not acting as an agent on the behalf of others, and who is responsible for processing such cargo through Guam border clearance procedures.

(i) *Consignment* means a particular shipment or unit of goods destined for an identifiable person for final sale or custody, whether or not entered by an agent or among other consignments under one carrier bill of lading.

(j) *Consolidated Consignment* means two or more consignments of cargo consolidated under one carrier bill of lading.

(k) *Containerized Shipments* means sea cargo transported via an ISO intermodal container or freight container (commonly referred to as shipping containers) used for moving products and raw materials between locations or countries.

(l) *Crew Members* means those persons who are directly connected with the operation or navigation of an arriving carrier, and who are identified as crewmembers on an official General Declaration or Crew List.

(m) *Director* means the Director of the Customs and Quarantine Agency.

(n) *Entry* includes “entry” and its derivatives means that time when documents and information are presented to the Customs and Quarantine Agency for inspection and/or clearance.

(o) *Fiscal Year* means the operating year of the Government of Guam commencing from October 1 of each calendar year through September 30 of the following calendar year.

(p) *Freight Forwarder* means any person in the business of entering cargo consignments into the Territory of Guam on the behalf of others for a fee, and who assumes responsibility for processing those consignments through general border clearance procedures as part of that service.

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

(q) *Fund* means the Customs, Agriculture, and Quarantine Inspection Services Fund.

(r) *GIAA* means the Antonio B. Won Pat Guam International Airport Authority.

(s) *GIAT* means the Antonio B. Won Pat Guam International Air Terminal, the Commuter Terminal, the Guam Integrated Air Cargo Facility, and all other airport lands and facilities, whether leased, subleased, owned, jointly owned, privately owned in contract with, or controlled by, the GIAA.

(t) *Shipping Weight* means the shipping weight of cargo as noted by the carrier on the carrier bill of lading.

(u) *House Bill of Lading* means an internal shipping document commonly used by freight forwarding or similar companies which identifies the ultimate consignee of a particular cargo consignment for which entry is being made under a carrier bill of lading.

(v) *Importer(s)* means those persons directly connected with the entry of cargo into the Territory of Guam from a place outside. This person may be the carrier, consignee, freight forwarder, or the owner of a particular consignment of cargo.

(w) *In-transit cargo consignments* means those consignments of cargo identified by the carrier bill of lading as destined for a port other than Guam.

(x) *In-transit sea passengers* means those sea passengers identified by the carrier manifest as destined for a port other than Guam.

(y) *Monies* means all monetary payments and/or proceeds of the Customs, Agriculture and Quarantine Inspection Service Charges and/or late payment penalties collected or received by virtue of Title 5, Chapter 73, Sections 73145, *et. seq.* of the Guam Code Annotated and/or these rules and regulations.

(z) *Non-Containerized Shipments* means sea cargo that is not transported via an ISO intermodal container or freight container, but rather as break-bulk or loose cargo. Examples of material that often times are not containerized shipments include aggregates, fuels,

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

heavy-duty machinery, vehicles, and trailers, to name a few.

(aa) *Party* means those persons, businesses, or corporations subject to the requirements of Title 5, Chapter 73, Sections 73145, *et. seq.* of the Guam Code Annotated and/or these rules and regulations.

(bb) *Passenger* means any person, excluding crewmembers, entering the Territory of Guam.

(cc) *Passenger Baggage* means the belongings and property entered into the Territory of Guam by an air or sea passenger.

(dd) *Person* means individuals, businesses, partnerships, associations, corporations, and/or their agents.

(ee) *Revenue passenger* means all air passengers except: free and reduced rate industry travelers; free and reduced rate agency travelers; infants; tour conductors, ambassadors and diplomats; complimentary ticket holders; ER1149 and ER1181 transportation authorizations; frequent flyer (FQTV) passengers; passengers holding free reward ticket, including the free ticket portion of companion reward travel; deadhead crew members; FAA inspectors; sky marshals and transit passengers who remain, at all times, in the sterile portion of the departure facility until their departure from the Territory.

(ff) *Rules and Regulations* means these rules and regulations established pursuant to Title 5, Chapter 73, Sections 73145, *et. seq.* of the Guam Code Annotated.

(gg) *Service Agency* means the Customs and Quarantine Agency.

(hh) *Services* means Customs, Agriculture, and Quarantine Inspection Services.

(ii) *Service Charge* means those charges authorized pursuant to Title 5, Chapter 73, Sections 73145 *et. seq.* of the Guam Code Annotated and these rules and regulations where applicable.

(jj) *Service Charge Facilities* means those facilities approved and/or designated by the Agency to provide the services set forth in these rules and regulations.

(kk) *Transshipment Cargo Consignments* means those consignments of cargo identified in the carrier bill of lading as

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

destined for Guam, but maintained, at all times, in a sterile bonded facility designated/approved by the Agency for ultimate export to a port other than Guam.

(ll) *Ultimate Consignee* means the ultimate person for whom a particular consignment of cargo is being entered into the Territory of Guam for final sale or custody.

(mm) *Vessel* means every description of watercraft or other contrivance used as a means of transportation on water, but does not include aircraft.

(nn) *Week* means the standard calendar week commencing from Sunday through Saturday.

(oo) *Workday* means any day of the week, excluding Saturdays, Sundays, and Holidays.

§ 2504. Service Charge Facilities.

Service charge facilities shall include, but are not limited to, those facilities at the GIAT, the Commercial Port of Guam, the Agat Marina, the Agana Boat Basin, and other locations as may be designated by the Agency, that are used to provide the services set forth in these rules and regulations.

§ 2505. Service Charges.

(a) Air Carrier Services

(1) Purpose and Adjustments. The Director is responsible for assuring, to the extent reasonably possible, that the service charges to be assessed to the air carriers by the Antonio B. Won Pat Guam International Airport Authority reflect as much as possible the actual costs associated with providing, maintaining, and operating the service charge facilities which relate to the air carriers' operations.

Accordingly, in connection with the Director's annual budget review of the service charges set forth in § 2506 (a) of these rules and regulations, the Director shall make any necessary adjustments to the service charges so that those charges reasonably reflect the anticipated costs during the upcoming year of providing, maintaining, and operating the service charge facilities as those facilities relate to the air carriers' operations.

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

In connection with this annual review, the Director shall also promptly determine what, if any, under- or over-collection of service charges from the air carriers occurred during the previous year, and the Antonio B. Won Pat Guam International Airport Authority shall assess and collect any under-collected sums from, or credit any over-collected sums to, the air carriers as is appropriate. The additional funds assessed or collected, or the funds credited, shall be allocated fairly among the several air carriers on a prorated basis so that the total amount of money to be assessed and collected, or to be credited, shall be apportioned among the several air carriers in proportion to each carrier's respective percentage of the passenger volume subject to the service.

Nothing in these rules shall be construed to prohibit the Director from reviewing or adjusting the service charges, or to prohibit the Antonio B. Won Pat Guam International Airport Authority from revising the Airport Tariff Schedule or from assessing, collecting, or crediting the funds set forth in this section, more frequently than on an annual basis as may be deemed appropriate by the Director.

(2) Charges. In order to calculate the service charges reasonably attributable to each air carrier for the service associated with that carrier, the Director shall determine the service charge to the several air carriers by the following methodology. The Director shall first estimate the current annualized costs of providing, maintaining, and operating the service charge facilities as they relate to air carrier operations, excluding air cargo operations, and then that annualized amount shall be divided by 12. The GIAA shall apportion such monthly amount among the several carriers in proportion to each carrier's revenue passenger volume subject to the services, times the cost per passenger determined below. Such monthly percentage of passenger volume shall be determined by reference to the monthly activity reports of passenger arrivals to be submitted to the GIAA by the air carriers. This apportionment methodology corresponds to the methodology used by the Agency, pursuant to a long-standing agreement with the air carriers, to apportion among the air carriers the Charges for Services of Customs and Quarantine Officers for the cost of using Agency personnel on an overtime basis.

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

Pursuant to a periodic review and this methodology, the Director has determined such total anticipated annualized costs of providing, maintaining, and operating the service charge facilities as they relate to air carrier operations, excluding air cargo operations, is approximately \$9,082,394. In accordance with periodic adjustments under § 2506(a)(5), the monthly charge will be adjusted to recover both the remaining annualized monthly charges, as well as those charges under-collected during the period of October 1, 2012 through April 30, 2013. Thus, the monthly charge attributable to all carriers is \$875,609 for which each air carrier shall be responsible for remitting to the GIAA its assessed pro rata service charge as determined by the GIAA under these rules and regulations. The effective date of this adjustment will begin August 1, 2013 and whereby the monthly charge shall be converted to a cost per passenger for purposes of the apportionment methodology and air carrier ticketing and advertising by dividing the monthly charge by the average number of monthly revenue passengers during the preceding three years. In subsequent annual service charge reviews, the monthly charge shall be divided by the average number of revenue passengers during the July 1 through June 30 period preceding the fiscal year. In accordance with § 2506(a)(4) of these rules and regulations, the GIAA Airport Tariff Schedule will be amended to reflect these charges accordingly.

(b) Sea Passenger Inspection Services.

(1) Charges. Subject to periodic review and adjustment by the Director as provided in § 2506 (b) of these rules and regulations, each non-exempt sea passenger shall remit ten (10) U.S. dollars to the collector.

(c) Cargo Clearance Services.

(1) Purpose and Adjustments. The Director is responsible for assuring, to the extent reasonably possible, that the service charges to be assessed for cargo clearance services reflect as much as possible the actual costs associated with providing, maintaining, and operating the service charge facilities which relate to cargo clearance operations.

Accordingly, in connection with the Director's annual budget review of the service charges set forth in § 2506 (b) of these rules and regulations, the Director shall make any necessary adjustments to the

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

service charges so that those charges reasonably reflect the anticipated costs of providing, maintaining, and operating the service charge facilities as those facilities relate to cargo operations for the upcoming year.

Nothing in these rules shall be construed to prohibit the Director from reviewing or adjusting the service charges, or from assessing, collecting, or crediting the funds set forth in this section, more frequently than on an annual basis as may be deemed appropriate by the Director.

(2) Charges. In order to calculate the service charge reasonably attributable to each cargo shipment, the Director shall first estimate the projected annualized costs of providing, maintaining, and operating the service charge facilities as they relate to cargo operations, and shall apportion such amount in proportion to the prior year's annualized cargo arrival volume subject to the services. Such annualized cargo volume shall be determined by reference to annual activity reports on cargo arrivals maintained by the GIAA and Port Authority of Guam.

Upon review and pursuant to this methodology, the Director has determined such total annualized costs of providing, maintaining, and operating the service charge facilities as they relate to cargo operations is approximately \$2,828,545.31. Thus, the monthly charge attributable to all importers is \$235,712.11 as of October 1, 2010 for which each importer shall be responsible for remitting to the Agency its service charge as determined under these rules and regulations. This monthly charge shall be converted to a cost per pound for the purposes of the apportionment methodology by dividing the monthly charge by the average monthly arriving cargo volume during the preceding year.

Subject to periodic review and adjustment by the Director as provided in § 2506 (b) of these rules and regulations, each consignee shall remit the following service charge to the collector:

(A) At the GIAT:

(i) Five (5) U.S. dollars for the first 100 pounds (shipping weight) or less of non-exempt cargo, whether consolidated or not, that is entered per carrier bill of lading;

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

and

(ii) .0012 U.S. dollars for every pound (shipping weight) of non-exempt cargo thereafter.

(iii) The total service charge per carrier bill of lading shall be rounded to the nearest U.S. cent.

(B) For Containerized Shipments of sea cargo arriving at the Commercial Port of Guam or other location authorized by the Director:

(i) Five (5) U.S. dollars for the first 4000 pounds (shipping weight) or less of non-exempt cargo, whether consolidated or not, entered per carrier bill of lading; and

(ii) .0012 U.S. dollars for every pound (shipping weight) of non-exempt cargo respectively thereafter.

(iii) The total service charge per carrier bill of lading shall be rounded to the nearest U.S. cent.

(C) For Non-containerized Shipments of sea cargo arriving at the Commercial Port of Guam or other location authorized by the Director:

(i) Five (5) U.S. dollars for the first 4000 pounds (shipping weight) or less of non-exempt cargo, whether consolidated or not, that is entered per carrier bill of lading; and

(ii) .0012 U.S. dollars for every pound (shipping weight) of non-exempt cargo thereafter not to exceed a total charge of \$500 U.S. Dollars per carrier bill of lading.

(iii) The total service charge per carrier bill of lading shall be rounded to the nearest U.S. cent.

(3) Required Documents and Information. Each consignee shall provide the Agency with the following documents and information when presenting cargo for Customs, Agriculture, and Quarantine clearances:

(A) Carrier Bill of Lading;

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

- (B) Invoices and Packing Slip;
- (C) Consignment Manifest (for consolidated consignments of cargo when required);
- (D) House Bills of Lading (for consolidated consignments of cargo when required); and
- (E) Other documents and/or information as may be necessary for making an accurate assessment of charges payable under this chapter.

SOURCE: Subsection (a)(2) amended pursuant to 5 GCA § 9303 (as amended by P.L. 31-220:3 (June 15, 2012).

§ 2506. Service Charge Review.

The Director will review service charges at least annually and make such periodic adjustments as may be necessary in accordance with these rules and regulations.

(a) Air Carrier Service Charges.

(1) Annual Budget Review. Each year the Agency will prepare and submit an annual budget to the Legislature. No later than February 21 of each fiscal year, the Agency will provide the GIAA and each air carrier subject to the service charge with a draft of their budgets for air carrier services showing the total actual costs associated with providing, maintaining and operating the service charge facilities which relate to air carrier operations, together with a request for comment to be provided to the Agency within thirty (30) days.

(2) Consultation. The Agency will hold at least one meeting called and scheduled by the Director with the GIAA and the air carriers to discuss the draft budgets for air carrier services and to provide GIAA and the air carriers with an opportunity to comment on the proposed budgets prior to their submission to the Legislature. The Agency will also hold at least one meeting called and scheduled by the Director with the GIAA and the air carriers to discuss a proposed periodic adjustment for air carrier services and to provide GIAA and the air carriers with an opportunity to comment on the proposed adjustments for

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

providing, maintaining, and operating the service charge facilities. The Agency will give due consideration to the input and comments received from GIAA and the air carriers during the consultation process.

(3) Final Decision. The Agency has the sole responsibility and expressly reserves the right to make all final decisions with respect to its budgets for air carrier services, and any adjustments thereof, subject only to such administrative or judicial review as may be provided by law.

The Agency's decision shall be consistent with and pursuant to these rules and regulations and in accordance with Title 5, Chapter 73, Sections 73145 et. seq. of the Guam Code Annotated. If, for any reason, the Legislature fails to approve the Agency's budget for providing, maintaining, and operating the service charge facilities before the end of the current fiscal year, the service charge in effect shall continue in full force and effect until a budget is adopted and approved by the Legislature, unless a periodic adjustment has been made as provided in § 2506 (a)(5) below.

(4) Formal Notice of Service Charge Adjustments. The Director will deliver written notice of any adjustment of the monthly service charge to GIAA and each air carrier subject thereto. In connection with the Director's annual budget review of the service charges as set forth under § 2506 (a)(1) above, the Director will provide the GIAA and air carriers with at least six (6) months advanced notification before any annual service charge adjustment is made to the GIAA Airport Tariff Schedule. Notwithstanding this advanced notification, nothing in these rules shall be construed as to prohibit the Director from making, and implementing sooner, any periodic adjustment to the service charge as the Director deems necessary to prevent a significant under- or over-collection of the service charge. No service charge adjustments will take effect until the GIAA has amended the Airport Tariff Schedule and given notice thereof for a period of thirty (30) days in accordance with GIAA's Terminal Rules and Regulations. The amended Airport Tariff Schedule will set forth the adjusted annualized and monthly costs of customs,

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

agriculture, and quarantine services to air carriers, and provide that each carrier will be assessed a proportionate share of the monthly costs based on its revenue passenger volume.

(5) Periodic Adjustments. In the event that there is a significant increase or decrease in the anticipated costs of providing, maintaining, and operating the service charge facilities for air carrier services after a budget has been submitted to the Legislature and before conducting the annual review set forth in § 2506 (a) above, the Director may adjust the monthly facility service charge to air carriers so that the amount of the charge levied on air carriers by the GIAA will reasonably reflect anticipated actual costs of providing, maintaining and operating the service charge facilities. Written notice to the GIAA and air carriers of a proposed periodic adjustment shall coincide with the consultation process as provided § 2506 (a)(2) above. The adjusted service charge shall not be levied or assessed until GIAA has amended the Airport Tariff Schedule and given notice thereof in accordance with its Terminal Rules and Regulations.

(b) Sea Passenger and Cargo Service Charges.

(1) Annual Budget Review. The Director will review service charges at least annually and make such periodic adjustments as may be necessary in accordance with established program rules and regulations. Each year the Agency will prepare and submit an annual budget to the Legislature showing the projected costs associated with providing, maintaining and operating the service charge facilities which relate to sea passenger and cargo operations. If, for any reason, the Legislature fails to approve the Agency's budget for providing, maintaining, and operating the service charge facilities before the end of the current fiscal year, the service charge in effect shall continue in full force and effect until a budget is adopted and approved by the Legislature, unless a periodic adjustment has been made as authorized by program rule and regulation.

(2) Periodic Adjustments and Public Notice of Customs, Agriculture, and Quarantine Inspection Service Charge Adjustments. The Director may periodically adjust the service charges for sea

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

passenger and cargo services so that such charges reasonably reflect the anticipated actual costs of providing, maintaining, and operating the service charge facilities as they relate to sea passenger and cargo operations. In the event that there is a significant increase or decrease in the anticipated costs of providing, maintaining, and operating the service charge facilities for sea passenger and cargo clearances after a budget has been submitted to the Legislature and before conducting the annual review, the Director may adjust the monthly facility service charge for sea passenger and cargo clearance services so that the amount of the charge levied will reasonably reflect anticipated actual costs of providing, maintaining and operating the service charge facilities. The Director shall make adjustments to these service charges by amending the service charge schedule in accordance with the Administrative Adjudication Law, and by posting public notice of the adjusted service charges in a conspicuous place within each sea passenger and cargo operations area at least thirty (30) days prior to the effective date of the adjustment.

Nothing in these rules shall be construed to prohibit the Director from reviewing or adjusting the service charges for sea passenger and/or cargo services more frequently than on an annual basis.

§ 2507. Exemptions for Cargo and Sea Passengers.

Each shipment of cargo and/or sea passenger arriving in the Territory of Guam under the following conditions are exempt from the Customs, Agriculture, and Quarantine Inspection Service Charge, and/or their inclusion in determining the amount payable under these rules and regulations:

(a) Diplomats of Foreign Governments and their cargo consignments who can show that their names appear on the accreditation listing maintained by the U.S. Department of State. In lieu of such listing an individual may present appropriate proof of diplomatic status to include possession of a diplomatic passport or visa, or a diplomatic identification card issued by a foreign government.

(b) Delegates to, or employees of, the United Nations, or any of its organizations who possess valid proof of their delegate or employee

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

status, such proof to include possession of a United Nations Passport or visa, or a valid United Nations identification card, and their cargo.

(c) Passengers and cargo consignments originating in Guam that have departed and returned to Guam without having touched another port, place, or craft outside of Guam.

(d) Passengers and cargo consignments arriving due to an emergency when the original destination was other than a Guam port.

(e) In-transit passengers, in-transit cargo consignments, and transshipment cargo consignments maintained, at all times, in a sterile bonded facility designated/approved by the Agency, and not using the Customs, Agriculture, and Quarantine Inspection Services.

(f) Official cargo shipments of mail consigned to the U.S. Postal Service.

(g) Human remains.

(h) A carrier's stores and materials being shipped for the carrier's own business use. This exemption shall not apply to any cargo consisting of personal property or belongings of the carrier's agents, officers, or employees.

Nothing in these rules shall be construed to prohibit any of the persons or cargo consignments enumerated in this section from actually being subjected to the service as otherwise provided by law.

§ 2508. Assessment, Collection, and Remittance.

(a) Antonio B. Won Pat Guam International Airport Authority. The GIAA shall assess and collect service facility charges, excluding cargo charges, from air carriers whose operations require services under Title 5, Chapter 73, Sections 73145 et. seq. of the Guam Code Annotated and these rules and regulations, and shall deposit all monies received with the Treasurer of Guam for credit to the Customs, Agriculture, and Quarantine Inspection Service Fund.

(1) Assessment. The GIAA may bill air carriers for services on a monthly basis in accordance with applicable billing procedures used by the GIAA. Upon the issuance of a billing, the GIAA shall provide the Director with a copy of such billing for record and accounting purposes.

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

(2) Collections and Accountability. The GIAA shall collect applicable service charges and implement procedures as may be required for the receipt, control, and accounting of monies taken into its custody. Accounting procedures shall be adopted and maintained in accordance with generally accepted accounting principles applicable to airports. All records and receipts relative to this program shall be maintained separate and apart from other activities of the organization.

(3) Deposit of Receipts. The GIAA shall coordinate remittance procedures with the Department of Administration, and shall guide itself by applicable Government of Guam requirements for these transactions.

(4) Late Payment Penalties. The GIAA receiving or having outstanding service or other charges due in excess of thirty (30) days shall assess, collect, and deposit applicable late payment penalties from respective parties in accordance with its procedures consistent with these rules and regulations.

(5) Compliance. The GIAA shall allow Customs and Quarantine Agency Personnel or their authorized representatives to verify the accuracy of the service charges assessed, collected and/or deposited, and to otherwise determine compliance with Title 5, Chapter 73, Sections 73145 et. seq. of the Guam Code Annotated and these rules and regulations .

(6) Reconciliation. The GIAA shall provide the Director with monthly statements identifying each billing issued during the reporting period inclusive of year-to-date aggregates of charges assessed, payments received, outstanding balances thereof, and deposits made. Upon written request, the GIAA shall provide the Director with any information related to this program as may be required. At the end of each year, the GIAA and the Agency shall reconcile the amount of service charges payable and received within the respective year.

(b) Customs and Quarantine Agency. The Customs and Quarantine Agency, or its agent, shall assess and collect service charges, excluding air carrier charges, from those persons whose operations require services under Title 5, Chapter 73, Sections 73145 et. seq. of the Guam Code Annotated and these rules and regulations, and shall deposit all receipts

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

with the Treasurer of Guam for credit to the Customs, Agriculture, and Quarantine Inspection Service Fund.

(1) Assessments. The collector shall assess service charges upon applicable parties for the provision of services and shall implement internal procedures as may be required for this process.

(2) Collection of Service Charges. The collector shall implement security and accounting procedures as may be required by law or deemed necessary in addition to those requirements provided herein for the collection of service charges.

(A) Receiving Payments.

(i) Receiving and Control. Collectors shall establish the hours of operation and the locations where payments may be made, and shall implement procedures for the security and accountability of monies taken into their custody.

(ii) Receipts and Records. The collector shall furnish each person from whom service charges were collected a receipt which identifies payment of the service charge, the date, the amount remitted, and that for which the payment is being made.

(iii) Accounting Requirements.

(aa) Procedures. Collectors shall apply and guide themselves by current accounting procedures applicable to their organization and the Government of Guam.

(bb) Maintenance of Records and Accounts. The collector shall maintain records of payments outstanding, due, received, and deposited, and shall maintain all records, ledgers, accounts, and monies separate and apart from all other records, ledgers, accounts, monies, and activities under the purview of their organization.

(cc) Monthly and Other Statements. The collector shall prepare and submit monthly statements

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

to the Director on or before the last work day of each month which identifies the total outstanding receivables, payments received, and payments deposited into the Customs, Agriculture, and Quarantine Inspection Services Fund during the reporting period as of the statement date, and any other information as may be required by the Director. Upon written request, the collector shall immediately provide the Director with any information on the activity of the account as may be desired.

(3) Remittance of Funds Received. All monies received shall be deposited with the Treasurer of Guam for credit to the Customs, Agriculture, and Quarantine Inspection Services Fund within five (5) working days of receipt. Collectors making such deposits shall be guided by applicable Government of Guam procedures of the Department of Administration for such transactions.

(4) Late Payments. Upon receiving or having outstanding charges due in excess of thirty (30) days from the applicable due date, the collector shall assess and collect applicable late payment penalties, and shall maintain records thereof, from each respective party consistent with the requirements outlined in § 2509 of these regulations.

(5) Compliance. Collectors shall allow Customs and Quarantine Agency Personnel or their authorized representatives to verify the accuracy of the service charges assessed, collected and/or deposited, and to otherwise determine compliance with Title 5, Chapter 73, Sections 73145 et. seq. of the Guam Code Annotated and these rules and regulations.

(6) Reconciliation. At the end of each year, collectors and the Agency shall reconcile service charges payable and received from applicable parties within the respective year.

(c) Agents. Agents acting on behalf of the GIAA or the Agency shall guide themselves by these rules and regulations, the requirements of their respective supervising agency, and any other law, which may be applicable.

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

Agents shall make available to their supervising organization any records, reports, and information under their purview concerning the Customs, Agriculture, and Quarantine Inspection Service Charges for the purposes of these rules and regulations and final disposition as may be required.

§ 2509. Payments and Penalties.

Payments subject to the provisions of Title 5, Chapter 73, Sections 73145 et. seq. of the Guam Code Annotated and these rules and regulations are due on the date the services are rendered, unless otherwise provided herein. A penalty shall be assessed in addition to applicable charges in the event that a payment becomes thirty (30) days overdue.

(a) Payment Requirements.

(1) Payments Due. Except for payments that are arranged on a billed basis by the collector under § 2509 (a)(2), payments of service charges become due on the date services are rendered.

(2) Billed Payments Due. Payments for service charges arranged on a billed basis become payable as of the billing date.

(3) Currency. All transactions and payments shall be made with U.S. currency, made with a personalized/certified check or money order payable in United States dollars through an on-island United States banking institution to the Antonio B. Won Pat Guam International Airport Authority or to the Treasurer of Guam where applicable, or other payment arrangement authorized by the collector.

(b) Penalties.

(1) Late Payments. In the event that a person or party exceeds thirty (30) days in paying the Customs, Agriculture, and Quarantine Inspection Service Charges from the date due, an interest charge of ten percent (10%) per annum shall be assessed upon the responsible party for applicable outstanding balances until otherwise paid in full.

(2) Non-Payment. Any person or party late in paying any service charge or late payment penalty due under these rules

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

and regulations may be required by the GIAA, the Agency, or its agents, to make immediate payment for subsequent services rendered.

(c) Notices. In the event that a person or party is delinquent in paying any charges or penalties under Title 5, Chapter 73, Sections 73145 et. seq. of the Guam Code Annotated and these rules and regulations for any reason, the collector shall issue a notice of such delinquency to the responsible party's last known address identifying, at a minimum, the date in which the subject amount was payable, the amount in arrears, and the penalty for defaulting on payments. Penalties for payment delinquency may include, but are not limited to, the assessment of authorized interest penalties as provided herein, as well as the suspension/revocation for the authorization to charge for services under this program, among others.

§ 2510. Reimbursements and Fund Allocations

The Agency, GIAA, and their agents shall remit and deposit all funds received and collected pursuant to Title 5, Chapter 73, Sections 73145 et. seq. of the Guam Code Annotated and these rules and regulations with the Treasurer of Guam for credit to the Customs, Agriculture, and Quarantine Inspection Service Fund.

(a) Antonio B. Won Pat Guam International Airport Authority. Upon appropriation by the Legislature and certification by the Director, the GIAA shall be entitled to reimbursement for reasonable administrative costs directly connected with assessing, collecting, and remitting service charges and penalties under Title 5, Chapter 73, Sections 73145 et. seq. of the Guam Code Annotated and these rules and regulations. Such reimbursement shall be provided in the following manner:

(1) Each fiscal year, the following reimbursement procedure shall apply:

(A) Projected Budget. The GIAA shall submit to the Agency on the Fifteenth day of January a projected budget in Government of Guam budget format reflecting anticipated administrative costs to assess, collect, and remit

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

applicable charges under Title 5, Chapter 73, Sections 73145 et. seq. of the Guam Code Annotated and these rules and regulations during the period of October 1st through September 30th of the following Government of Guam Fiscal Year;

(B) Advisory. Upon appropriation by the Legislature, the Director shall advise the GIAA of the authorized reimbursement funding approved by the Legislature for expenditure in the following fiscal year.

(C) Deduction from Service Charge Proceeds. The GIAA is authorized to deduct and retain each month the sum equal to one-twelfth (1/12) of the amount of reimbursement authorized for the same Fiscal Year, pursuant to the immediately preceding subparagraph (B), from the service charge proceeds collected by GIAA from air carriers, as full reimbursement for the costs of assessing, collecting, and remitting applicable charges pursuant to these rules and regulations.

(D) Additional Expenses, Court Costs, and Attorneys' Fees. The GIAA may request reimbursement for additional or extraordinary costs incurred in the assessment and collection of service charges pursuant to these rules and regulations, and any enforcement actions or proceedings for such collection, including, but not limited to, court costs and attorneys' fees, by submitting a verified statement for such expenses within thirty (30) days after the same are incurred to the Director of Customs. Upon review and verification, the Director may reimburse those cost for which funds are appropriated by the Legislature, and of which costs shall be subject to recovery from the air carriers by adjustment of the service charges pursuant to § 2505 of these rules and regulations.

(b) Customs and Quarantine Agency. All operating expenses and encumbrances of the Customs and Quarantine Agency shall be paid by the Fund upon appropriation by the Legislature, and certification by the Director.

4 GAR - COMMERCE
CH. 2 - CUSTOMS AND QUARANTINE

(1) Customs and Quarantine Agency Annual Budget. The Agency shall prepare and submit an annual budget each fiscal year in accordance with budget procedures applicable to the Government of Guam.

(2) Reimbursement Appropriations. The Agency shall include in its annual budget request projected reimbursements for the cost of collecting and remitting service charges by authorized parties.

§ 2511. Severability Clause.

If any provision of these rules and regulations or the application thereof upon any person, party, or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these rules and regulations which can be given effect without the invalid provision or application, and, to this end, the provisions of these rules and regulations are severable.

The aforementioned Rules and Regulations are hereby promulgated by the Director of the Customs and Quarantine Agency, [May 11, 2011], pursuant to Title 5, Chapter 73, Section 73151 of the Guam Code Annotated.
