

CHAPTER 3
OPERATION OF THE HARBOR OF REFUGE

- §3100. Purpose and Policy
- §3101. Definitions.
- §3102. Registration.
- §3103. Use of Harbor of Refuge.
- §3104. Fees
- §3105. Vacating the Harbor of Refuge Upon Return of Safe Weather Conditions.
- §3106. Special Mooring Permits.
- §3107. Enforcement.
- §3108. Amendments.

NOTE: Rule-making authority cited for formulation of Port Authority of Guam can be found in Chapter 10, Title 12, Guam Code Annotated.

The original publication was made on February 15, 1975.

§3100. Purpose and Policy. (a) The Harbor of Refuge is intended for use of private and small commercial vessels for anchorage during times of adverse weather conditions.

(b) The Harbor of Refuge may be utilized by owners/operators of vessels for anchorage for short periods of time other than periods of adverse weather, when the owner/operator of a vessel is off-island and has secured in advance the necessary permit.

(c) The Harbor of Refuge is not a marina and vessels will not be allowed to utilize the facility except as described in Sections (a) and (b) above.

§3101. Definitions. (a) *Adverse Weather.* Adverse weather is defined as any weather condition which could cause damage to vessels, impede the operation of vessels or pose a hazard to the operation of a vessel. Examples of adverse weather include tropical depressions, tropical storms and instances of adverse wind conditions wherein the wind direction changes from the normal north through east sector to a more southerly or westerly direction.

(b) *Harbor Master.* A Port authority of Guam official who is in charge of implementing these Rules and Regulations including the issuance of permits and the taking of any necessary enforcement action.

(c) *Piti Channel.* The channel which leads from the Commercial Port to the Harbor of Refuge.

(d) *Registration Fee.* The annual fee charged to register a vessel with the Port Authority of Guam pursuant to

§3300.4 of these Rules and Regulations.

(e) *Use Fee.* The fee charged for a vessel's use of the Harbor of Refuge as a result of adverse weather or for special purposes as may be permitted pursuant to Section 7 of these Rules and Regulations.

(f) *Vessels.*

(1) *Private recreational vessels* are those generally in the 18-50 foot length which are not used commercially, are privately owned and operated, and which are not trailered but normally left in the water.

(2) *Small commercial vessels* are those operated for a profit by carrying passengers for sightseeing, fishing or diving, and which are generally left in the water and do not exceed a length of 50 feet.

§3102. Registration. All boat owners/operators who may have a need to utilize the Harbor of Refuge must register on an annual or daily use with the Harbor Master.

(a) Upon registration, the owner/operator of a vessel must sign a waiver of liability freeing the Port Authority of Guam and the government of Guam from any liability in the event of damage or accident incurred during the use of the Harbor of Refuge.

(b) Upon registration, the owner/operator must sign a document promising to abide by these Rules and Regulations governing the use of the Harbor of Refuge.

(c) Upon registration, a copy of these Rules and Regulations will be provided to the owner/operator.

(d) Vessels being registered must show ownership of vessel, with the current address and telephone number of owner.

(e) Registration of a vessel shall not be confused with the annual registration fee as set forth in Section 5.1. All vessels must register with the Harbor Master for actual use of the Harbor of Refuge.

§3103. Use of Harbor of Refuge. (a) Registered and unregistered vessels may use the Harbor of Refuge on a first come first serve basis. Such vessels may proceed to the Harbor of Refuge at any time the owner/operator believes it is prudent to do so due to forecasted or actual adverse weather.

(b) The owner/operator must inform the Harbor

Master, either by VHF radio or by telephone,, that the vessel is proceeding to the Harbor of Refuge. The Harbor Master will log this information and may assign a mooring location for the vessel if he deems it necessary.

(1) The owner/operator of an unregistered vessel (see Section 3.0) will be required to register with the Harbor Master at a time determined by the Harbor Master after entry to the Harbor of Refuge.

(2) The Harbor Master has the right to deny entry to an unregistered vessel if in his opinion such entry would endanger other vessels.

(c) **Mooring.** Depending upon the size of the vessel, the normal method of mooring will be between four buoys, with two lines fore and two lines aft.

(1) The owner/operator must provide their own lines, shackles and other necessary equipment for mooring.

(2) Prohibitions.

(i) No vessel is allowed to anchor in the Piti Channel at any time, which obstructs vessel traffic to and from the Harbor of Refuge.

(ii) No vessel is allowed to place lines or ground tackle which would restrict access or otherwise endanger other vessels from entering the Harbor of Refuge.

(iii) No permit to live aboard a vessel shall be issued by the Harbor Master.

(d) The government of Guam and its agencies, including but not limited to the Port Authority of Guam, makes no warranties or representations, expressed or implied, that the Harbor of Refuge is safe from adverse weather. Any person, company or corporation using the Harbor of Refuge shall do so at his (her) or at its own risk and the government of Guam and its agencies, including but not limited to the Port Authority of Guam, shall not be liable for any damage, loss, injury to person(s), to the vessel or to property incurred or resulting from one's use of the Harbor of Refuge.

§3104. Fees. The Harbor Master shall set and may change all fees from time to time with the approval of the Board of Directors of the Port Authority of Guam. The approved fees shall be set forth in a schedule

attached to these Rules and Regulations.

(a) An annual registration fee shall be established. The annual registration fee shall be separate and apart from a use fee defined in subsection (b) below:

(1) The annual registration fee shall entitle a registered vessel to a lower or a discount in (1) the daily use fee during adverse weather and (2) the special use fee.

(2) The payment of an annual registration fee for a vessel shall not give that vessel priority use of the Harbor of Refuge for such use shall be on a first come first serve basis.

(b) A use fee shall be established and shall be charged on a daily basis for use of the Harbor of Refuge as a result of adverse weather or for special uses as may be permitted pursuant to Section 7 below:

(1) The use fee during adverse weather may be higher than the fee for special uses. The fee for special uses, if it is lower than the fee charged for adverse weather, shall be subject to an increase, during the time of adverse weather, to make it equal to the use fee for adverse weather; subject to any lower or discounted fees for registered vessels. Example: Suppose the fee for a particular vessel is \$20.00 per day under a special mooring permit and the fee for adverse weather is \$30.00 per day, then if a typhoon warning goes into effect, the fee shall be adjusted upwards to \$30.00 per day for the duration of the typhoon.

(c) The Harbor Master may require, with the approval of the Board of Directors of the Port Authority of Guam, a security deposit to be paid by persons, receiving special permits to secure the performance of these Rules and Regulations, the terms of the registration form and to help defray the cost of removing a vessel if the owner or registrant fails to remove the vessel upon the expiration or termination of the special permit.

§3105. Vacating the Harbor of Refuge Upon Return of Safe Weather Conditions. (a) Upon return of safe weather conditions (subsection (b)), owners/operators will have five (5) days (120 hours) to depart the Harbor of Refuge.

(b) If for mechanical or other reasons, the vessel is unable to depart within the five (5) day period, a special permit must be obtained from the Harbor Master.

(c) Upon departing the Harbor of Refuge, the Harbor Master must be advised, either by VHF or by telephone.

§3106. Special Mooring Permits. (a) A special permit may be obtained from the Harbor Master to moor in the Harbor of Refuge. Such permits may be issued for a maximum of eight (8) weeks for the following reasons:

(1) The owner/operator is temporarily leaving the island and needs a safe mooring place in the event of adverse weather conditions during his absence.

(2) Temporary mechanical problems prohibit the vessel from being moved in a safe manner.

(b) **Fees for Special Permits.** The Port Authority of Guam will established a fee schedule for special permits based on daily or weekly rates. Such fees are payable in advance prior to the issuance of a special permit and are non-refundable.

(c) Vessels using the Harbor of Refuge under a special mooring permit must provide the Harbor Master with a contact person, address and telephone number on Guam.

§3107. Enforcement. (a) The Harbor Master or other authorized enforcement agency is empowered to enforce these Rules and Regulations in accordance with all laws of the Territory of Guam, including the Harbor Regulations of the Port Authority of Guam and all pertinent federal laws and regulations.

(b) Enforcement may result in a loss of further use of the Harbor of Refuge by offending vessel owners/operators, fines or impoundment of vessels.

§3108. Amendments. These Rules and Regulations may be amended or modified by the Harbor Master, subject to the prior approval by the Board of Directors of the Port Authority of Guam and subject to any other laws of the Territory of Guam.

HARBOR OF REFUGE

FEE SCHEDULE

- I. Registration \$100.00 per Vessel
- II. Use Fee (Storm Conditions):
 - 1. Registered Vessels
 - a. Storm Conditions \$ 5.00 per day
 - b. Fifth day and beyond
after safe return to
safe conditions \$ 20.00 per day
 - 2. Unregistered Vessels \$ 20.00 per day
until registered
- III. Special Mooring
Permits (Registered
Vessels Only) \$150.00 per month

"HARBOR OF REFUGE MOORING"

REGISTRATION FORM

1. I, the applicant, agree that payment of registration and mooring fees shall in accordance with the schedule provided in the harbor of Refuge Rules and Regulations, and further grant and give to the Port Authority of Guam a lien any unpaid fees and/or damage to the Port Authority of Guam's property.
2. I agree that if I am found in default of payment of said fees ten (10) days from the due date, my permit will be terminated and the Port Authority of Guam shall have the right to remove my vessel from the Harbor of refuge at my expense.
3. The permit is nontransferable to another vessel or person. I agree not to allow any person or persons to use my permit. Violation shall be cause to lose my Harbor of Refuge mooring privileges.
4. The Port Authority of Guam shall not be liable for loss, injury and damage to the vessel, or to any personal property stored or located thereon, or for any personal injury to me or to other person using the Harbor of Refuge. I agree that I am using the Harbor of Refuge at my risk, and that no representations or warranties, expressed or implied, have been made by the government of Guam or its agencies, including but not limited to the Port Authority of Guam, that the Harbor of Refuge is a safe place during adverse weather or at any time whatsoever. I, and on behalf of my representatives, agents, employees and invitees, hereby waive, release and discharge the Port Authority of Guam and the government of Guam and its agencies from any claim and demand for damages, losses, expenses, liabilities and obligations of every kind or nature, whether now known or unknown by reason of or arising from the use of the Harbor of Refuge, and hereby further waive the benefits of the provisions of 18 GCA §82602 which reads as follows:

§1542. Certain Claims Unaffected by General Release. A general release does not

extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor. [Enacted 1953]

5. I agree to maintain, in good order, the immediate surrounds of the slot assigned to me and to keep it clean and free from debris.

6. I agree to notify the Harbor Master of the Port Authority of Guam in writing within seven (7) days if: (1) I no longer have possession of my vessel; or (2) all or any interest in my vessel is transferred to another person or persons; or (3) I have changed my address and telephone number; or (4) my vessel is chartered, leased or rented.

7. I agree that if my vessel is sold, my mooring permit is automatically terminated.

8. I agree that my use permit shall not exceed one (1) year. Upon expiration of the period stated therein, my permit shall automatically terminate. No use permit shall be renewed unless all fees and charges due and payable are paid.

9. I agree that the Port Authority of Guam reserves the right, when it is necessary to relocate my vessel from one part of the Harbor of Refuge to another. Unless emergency or other circumstances require otherwise, such action shall be preceded by reasonable effort by the Port Authority of Guam to give notice and opportunity to me to remedy the situation myself by removal or otherwise.

10. I agree to abide to all of the Rules and Regulations governing the use of the Harbor of Refuge relative to federal and local laws.

11. Special Permit: I hereby deposit the sum of \$_____ as a security deposit for the issuance of a special permit. This shall secure my performance of the Rules and Regulations, the terms of this registration form and to defray the Port Authority of Guam's cost in removing my vessel if I fail to remove

it after the expiration or termination of my special permit. The Harbor Master shall have the right and authority to remove my vessel if I fail to do so upon the cancellation or termination of my special permit. The cost of such removal, storage or docking costs shall be borne by the owner of the vessel and/or me.

REGISTRATION ENDORSEMENT

Approved/Disapproved:

Applicant:

FRANK G. SANTOS

Name (Print)

Harbor Master

Date: _____

Signature

Approved/Disapproved:

Mailing Address:

By _____

Its General Manager

Telephone No.

Date: _____

Date: _____

VESSEL IDENTIFICATION

_____	_____
Vessel ID	Vessel Name
_____	_____
Type	Length
_____	_____
Color	Gross Weight
_____	_____
Draft	Expiration Date

State/Territorial Documentation	
_____	_____
Year Vessel Built	Coast Guard
	Inspection

NOTE: ATTACH COPY OF VESSEL PAPERS.