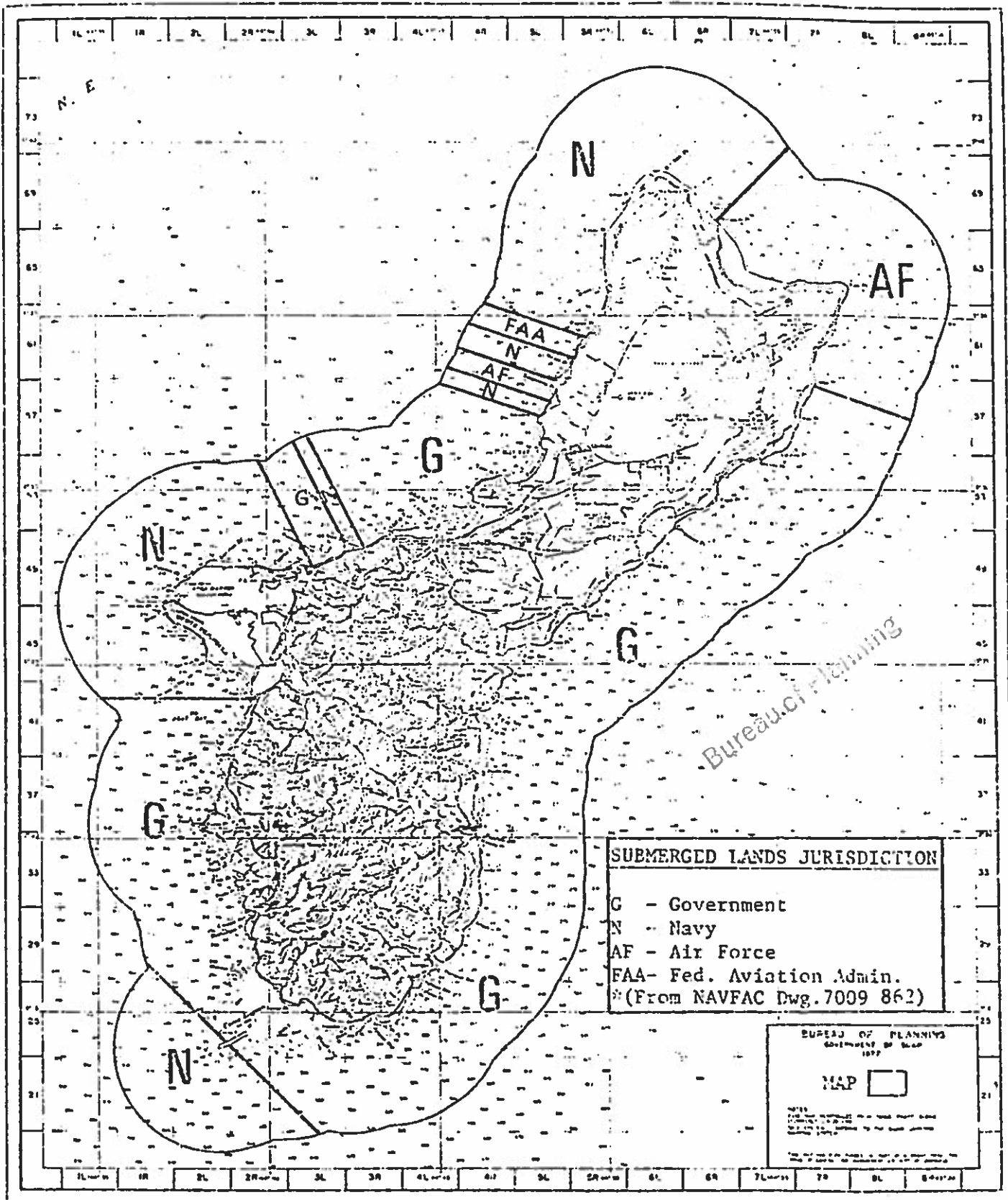


EXCLUSIVE ECONOMIC ZONE

Bureau of Planning

Compiled by.. Guam Coastal Management
Program, Bureau of Planning
September 1988



IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of March, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

Proclamation 5030 of March 10, 1983

Exclusive Economic Zone of the United States of America

48 F.R. 10605

By the President of the United States of America

A Proclamation

WHEREAS the Government of the United States of America desires to facilitate the wise development and use of the oceans ~~consistent with interna-~~

WHEREAS international law recognizes that, in a zone beyond its territory and adjacent to its territorial sea, known as the Exclusive Economic Zone, a coastal State may assert certain sovereign rights over natural resources and related jurisdiction; and

WHEREAS the establishment of an Exclusive Economic Zone by the United States will advance the development of ocean resources and promote the protection of the marine environment, while not affecting other lawful uses of the zone, including the freedoms of navigation and overflight, by other States;

NOW, THEREFORE, I, RONALD REAGAN, by the authority vested in me as President by the Constitution and laws of the United States of America, do hereby proclaim the sovereign rights and jurisdiction of the United States of America and confirm also the rights and freedoms of all States within an Exclusive Economic Zone, as described herein.

The Exclusive Economic Zone of the United States is a zone contiguous to the territorial sea, including zones contiguous to the territorial sea of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands (to the extent consistent with the Covenant and the United Nations Trusteeship Agreement), and United States overseas territories and possessions. The Exclusive Economic Zone extends to a distance 200 nautical miles from the baseline from which the breadth of the territorial sea is measured. In cases where the maritime boundary with a neighboring State remains to be determined, the boundary of the Exclusive Economic Zone shall

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This Proclamation do
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The United States wi
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IN WITNESS WHEREC
March, in the year of ou
Independence of the Un

Proclamation 5031 of Ma

National P.O.W.-M.I.

48 F.R. 11101

By the President of the U

A Proclamation

Since the earliest days o
answered the call to duty.
war have endured extreme
sacrifices. But even when
proudly defended America
they were subject to mistre
tal moral standards and inte

Contract out for literature
search of resources
of the EEZ

PROCLAMATIONS

No. 5031

be determined by the United States and other State concerned in accordance with equitable principles.

Within the Exclusive Economic Zone, the United States has, to the extent permitted by international law, (a) sovereign rights for the purpose of exploring, exploiting, conserving and managing natural resources, both living and non-living, of the seabed and subsoil and the superjacent waters and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds; and (b) jurisdiction with regard to the establishment and use of artificial islands, and installations and structures having economic purposes, and the protection and preservation of the marine environment.

This Proclamation does not change existing United States policies concerning the continental shelf, marine mammals and fisheries, including highly migratory species of tuna which are not subject to United States jurisdiction and require international agreements for effective management.

The United States will exercise these sovereign rights and jurisdiction in accordance with the rules of international law.

Without prejudice to the sovereign rights and jurisdiction of the United States, the Exclusive Economic Zone remains an area beyond the territory and territorial sea of the United States in which all States enjoy the high seas freedoms of navigation, overflight, the laying of submarine cables and pipelines, and other internationally lawful uses of the sea.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of March, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

Proclamation 5031 of March 14, 1983

National P.O.W.-M.I.A. Recognition Day, 1983

48 F.R. 11101

By the President of the United States of America

A Proclamation

Since the earliest days of our Nation, America's men and women have answered the call to duty. In each of our country's conflicts, our prisoners of war have endured extreme hardships and have been required to make great sacrifices. But even when facing the most extreme adversity, they have proudly defended American ideals. Their burden has been magnified when they were subject to mistreatment, torture, or death in violation of fundamental moral standards and international codes of conduct.

any such transportation or storage occur unless the proposed transportation or storage plan has been specifically authorized by Act of Congress: *Provided*, That the provisions of this section shall not apply to the cleanup and rehabilitation of Bikini and Eniwetok Atolls.

(b) For the purpose of this section the words "territory or possession" include the Trust Territory of the Pacific Islands and any area not within the boundaries of the several States over which the United States claims or exercises sovereignty.

"Territory or possession"

Definitions

SEC. 606. (a) Section 8 of the Act of March 2, 1917 ("Jones Act"), as amended (48 U.S.C. 749), is amended by adding the following after the last sentence thereof: "Notwithstanding any other provision of law, as used in this section (1) 'submerged lands underlying navigable bodies of water' include lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide, all lands underlying the navigable bodies of water in and around the island of Puerto Rico and the adjacent islands, and all artificially made, filled in, or reclaimed lands which formerly were lands beneath navigable bodies of water; (2) 'navigable bodies of water and submerged lands underlying the same' in and around the island of Puerto Rico and the adjacent islands and waters extend from the coastline of the island of Puerto Rico and the adjacent islands as heretofore or hereafter modified by accretion, erosion, or reliction, seaward to a distance of three marine leagues; (3) 'control' includes all right, title, and interest in and to and jurisdiction and authority over the submerged lands underlying the harbor areas and navigable streams and bodies of water in and around the island of Puerto Rico and the adjacent islands and waters, and the natural resources underlying such submerged lands and waters, and includes proprietary rights of ownership, and the rights of management, administration, leasing, use, and development of such natural resources and submerged lands beneath such waters."

(b) Section 7 of the Act of March 2, 1917 ("Jones Act"), as amended (48 U.S.C. 747), is amended by adding the following after the last sentence thereof: "Notwithstanding any other provision of law, as used in this section 'control' includes all right, title, and interest in and to and jurisdiction and authority over the aforesaid property and includes proprietary rights of ownership, and the rights of management, administration, leasing, use, and development of such property."

✓ SEC. 607. (a) The first section of the Act entitled "An Act to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes", approved October 5, 1974 (48 U.S.C. 1705), is amended by adding at the end thereof the following new subsection:

✓ "(d)(1) The Secretary of the Interior shall, not later than sixty days after the date of enactment of this subsection, convey to the governments of Guam, the Virgin Islands, and American Samoa, as the case may be, all right, title, and interest of the United States in deposits of oil, gas, and other minerals in the submerged lands conveyed to the government of such territory by subsection (a) of this section.

Mineral deposits, conveyance of U.S. rights, title, and interest

"(2) The conveyance of mineral deposits under paragraph (1) of this subsection shall be subject to any existing lease, permit, or other interest granted by the United States prior to the date of such conveyance. All rentals, royalties, or fees which accrue after such date of conveyance in connection with any such lease, permit, or other interest shall be payable to the government of the territory to which such mineral deposits are conveyed."

GUAM, VIRGIN ISLANDS, AMERICAN SAMOA
LAND JURISDICTION

PUBLIC LAW 93-435; 88 STAT. 1210

(11. U. 11539)

An Act to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

(a) Subject to valid existing rights, all right, title, and interest of the United States in lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward in a line three nautical miles distant from the coastlines of the territories of Guam, the Virgin Islands, and American Samoa, as heretofore or hereafter modified by accretion, erosion, and reliction, and in artificially made, filled in, or reclaimed lands which were formerly permanently or periodically covered by tidal waters, are hereby conveyed to the governments of Guam, the Virgin Islands, and American Samoa, as the case may be, to be administered in trust for the benefit of the people thereof.

(b) There are excepted from the transfer made by subsection (a) hereof—

(i) all deposits of oil, gas, and other minerals, but the term "minerals" shall not include coral, sand, and gravel;

(ii) all submerged lands adjacent to property owned by the United States above the line of mean high tide;

(iii) all submerged lands adjacent to property above the line of mean high tide acquired by the United States by eminent domain proceedings, purchase, exchange, or gift, after the date of enactment of this Act, as required for completion of the Department of the Navy Land Acquisition Project relative to the construction of the Ammunition Pier authorized by the Military Construction Authorization Act, 1971 (84 Stat. 1204), as amended by section 201 of the Military Construction Act, 1973 (86 Stat. 1135);

(iv) all submerged lands filled in, built up, or otherwise reclaimed by the United States, before the date of enactment of this Act, for its own use;

(v) all tracts or parcels of submerged land containing on any part thereof any structures or improvements constructed by the United States;

(vi) all submerged lands that have heretofore been determined by the President or the Congress to be of such scientific, scenic, or historic character as to warrant preservation and administration under the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.);

(vii) all submerged lands designated by the President within one hundred and twenty days after the date of enactment of this Act;

(viii) all submerged lands that are within the administrative responsibility of any agency or department of the United States other than the Department of the Interior;

(ix) all submerged lands lawfully acquired by persons other than the United States through purchase, gift, exchange, or otherwise;

(x) all submerged lands within the Virgin Islands National Park established by the Act of August 2, 1956 (16 U.S.C. 393 et seq.), including the lands described in the Act of October 8, 1962 (16 U.S.C. 398e-398d); and

(xi) all submerged lands within the Buck Island Reef National Monument as described in Presidential Proclamation 3446 dated December 28, 1961.

Upon request of the Governor of Guam, the Virgin Islands, or American Samoa, the Secretary of the Interior may, with or without reimbursement, and subject to the procedure specified in subsection (c) of this section convey all right, title, and interest of the United States in any of the lands described in clauses (ii), (iii), (iv), (v), (vi), (vii), or (viii) of this subsection to the government of Guam, the Virgin Islands, or American Samoa, as the case may be, with the concurrence of the agency having custody thereof.

Repeals Sections 1, 2 & 3
of P.L. 93-173

P.L. 93-435

(c) No conveyance shall be made by the Secretary pursuant to this section until the expiration of sixty calendar days (excluding days on which the House of Representatives or the Senate is not in session because of an adjournment of more than three days to a day certain) from the date on which the Secretary of the Interior submits to the Committees on Interior and Insular Affairs of the House of Representatives and the Senate an explanatory statement indicating the tract proposed to be conveyed and the need therefor, unless prior to the expiration of such sixty calendar days both committees inform the Secretary that they wish to take no action with respect to the proposed conveyance.

Sec. 2. (a) Nothing in this Act shall affect the right of the President to establish naval defensive sea areas and naval airspace reservations around and over the islands of Guam, American Samoa, and the Virgin Islands when deemed necessary for national defense.

(b) Nothing in this Act shall affect the use, development, improvement or control by or under the constitutional authority of the United States of the lands transferred by the first section of this Act, and the navigable waters overlying such lands, for the purposes of navigation or flood control or the production of power, or be construed as the release or relinquishment of any rights of the United States arising under the constitutional authority of Congress to regulate or improve navigation, or to provide for flood control or the production of power.

(c) The United States retains all of its navigational servitude and rights in and powers of regulation and control of the lands conveyed by the first section of this Act, and the navigable waters overlying such lands, for the constitutional purposes of commerce, navigation, national defense, and international affairs, all of which shall be paramount to, but shall not be deemed to include, proprietary rights of ownership, or the rights of management, administration, leasing, use, and development of the lands and natural resources which are specifically conveyed to the government of Guam, the Virgin Islands, or American Samoa, as the case may be, by the first section of this Act.

(d) Nothing in this Act shall affect the status of lands beyond the three-mile limit described in section 1 of this Act.

Sec. 3. Subsection (b) of section 31 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1625(b))¹ is amended to read as follows:

"(b) All right, title, and interest of the United States in the property placed under the control of the government of the Virgin Islands by section 4(a) of the Organic Act of the Virgin Islands of the United States (48 U.S.C. 1405(a)), not reserved to the United States by the Secretary of the Interior within one hundred and twenty days after the date of enactment of this subsection, is hereby conveyed to such government. The conveyance effected by the preceding sentence shall not apply to that land and other property which on the date of enactment of this subsection is administered by the Secretary of the Interior as part of the National Park System and such lands and other property shall be retained by the United States."

Sec. 4. On and after the date of enactment of this Act, all rents, royalties, or fees from leases, permits, or use rights, issued prior to such date of enactment by the United States with respect to the land conveyed by this Act, or by the amendment made by this Act, and rights of action for damages for trespass occupancies of such lands shall accrue and belong to the appropriate local government under whose jurisdiction the land is located.

Sec. 5. The first section, and sections 2 and 3 of the Act entitled "An Act to authorize the Secretary of the Interior to convey certain submerged lands to the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes", approved November 20, 1963 (48 U.S.C. 1701-1703),² are repealed.

Sec. 6. No person shall be denied access to, or any of the benefits accruing from, the lands conveyed by this Act, or by the amendment made by this Act, on the basis of race, religion, creed, color, sex, national origin, or ancestry: *Provided, however,* That this section shall not be construed in derogation of any of the provisions of the April 17, 1900 cession of Tutuila and Aunu'u or the July 16, 1901 cession of the Manu'a Islands, as ratified by the Act of February 20, 1929 (45 Stat. 1253) and the Act of May 22, 1929 (46 Stat. 4).

Approved Oct. 5, 1971.

PROCLAMATIONS

Under Section 2 of the Act of June 8, 1906, 34 Stat. 225 (16 U.S.C. 431), the President is authorized to declare by public Proclamation objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected. The aforementioned thirty acres of submerged lands are contiguous to the site of the Buck Island Reef National Monument, constitute a part of the ecological community of the Buck Island Reef, and will not enlarge the monument boundary and the smallest area compatible with its proper care and management.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, by virtue of the authority vested in me by Section 1(b) (vii) of Public Law 93-435 (88 Stat. 1210), do hereby proclaim that the lands hereinafter described are excepted from the transfer to the Government of the Virgin Islands under Section 1(a) of Public Law 93-435; and, by virtue of the authority vested in me by Section 2 of the Act of June 8, 1906, 34 Stat. 225 (16 U.S.C. 431), do hereby proclaim that, subject to valid existing rights, the lands hereinafter described are hereby added to and made a part of the Buck Island Reef National Monument, and Proclamation No. 3443 of December 28, 1961, establishing the Buck Island Reef National Monument is amended accordingly.

Beginning at latitude 17°47'30" N, longitude 64°36'30" W; thence approximately 1000 feet to latitude 17°47'27" N, longitude 64°36'22" W; thence approximately 900 feet to latitude 17°47'18" N, longitude 64°36'22" W; thence approximately 1000 feet to latitude 17°47'15" N, longitude 64°36'22" W; thence approximately 1500 feet to latitude 17°47'30" N, longitude 64°36'32" W, the place of beginning, embracing an area of approximately 30 acres.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of February, in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred and ninety-ninth.

GERALD R. FORD

No. 4347

Feb. 4, 1975, 40 F.R. 5129

RESERVING CERTAIN SUBMERGED LANDS ADJACENT TO ROSE ATOLL NATIONAL WILDLIFE REFUGE TERRITORY OF AMERICAN SAMOA AND, CERTAIN SUBMERGED LANDS FOR THE DEFENSE NEEDS OF THE UNITED STATES IN THE TERRITORIES OF GUAM AND THE VIRGIN ISLANDS

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA
A PROCLAMATION

The submerged lands surrounding the Rose Atoll National Wildlife Refuge in American Samoa are necessary for the protection of the Atoll's marine life, including the green sea and hawksbill turtles. The submerged lands in Apra Harbor and those adjacent to Inapsan Beach and Urano Point in Guam, and certain submerged lands on the west coast of St. Croix, United States Virgin Islands are required for national defense purposes. These submerged lands in American Samoa, Guam and the United States Virgin Islands will be conveyed to the Government of those territories, on February 3, 1975, pursuant to Section 1(a) of Public Law 93-435 (88 Stat. 1210), unless the President, under Section 1(b) (vii) of that Act, designates otherwise.

110 Jan
PROCLAMATIONS

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, by virtue of authority vested in me by Section 1(b) (vii) of Public Law 93-435 (88 Stat. 1210) do hereby proclaim that the lands hereinafter described are excepted from the transfer to the Government of American Samoa, the Government of Guam and the Government of the United States Virgin Islands under Section 1(a) of Public Law 93-435.

American Samoa. The submerged lands adjacent to Rose Atoll located 78 miles east-southeast of Tau Island in the Manua Group at latitude 14°32'52" south and longitude 168°08'34" west, which lands shall be under the joint administrative jurisdiction of the Department of Commerce and the Department of the Interior.

Guam. (1) The submerged lands of inner and outer Apra Harbor; and, (2) the submerged lands adjacent to the following uplands: (a) Unsurveyed land, Municipality of Machanao, Guam, as delineated on Commander Naval Forces, Marianas Y & D Drawing Numbered 597-464, lying between the seaward boundaries of Lots Numbered 9992 through 9997 and the mean high tide, containing an undetermined area of land, (b) unsurveyed land, Municipality of Machanao, Guam, as delineated on Commander Naval Forces, Marianas Y & D Drawing Numbered 597-464, lying between the seaward boundary of Lot Numbered 10080 and the line of mean high tide, containing an undetermined amount of land, and (c) Lot Numbered PO 4.1 in the Municipality of Machanao, Guam, as delineated on Y & D Drawing Numbered 597-464, more particularly described as surveyed land bordered on the north by Lot Numbered 10080, Machanao, east by Northwest Air Force Base, south by U. S. Naval Communication Station (Pinegayan) and west by the sea containing a computed area of 125.50 acres, more or less. All of the above lands within the territory of Guam shall be under the administrative jurisdiction of the Department of the Navy.

The Virgin Islands. (1) The submerged lands as described in the Code of Federal Regulations revised as of July 1, 1974, cited as 33 CFR 207.817 areas "A" & "B", (2) the submerged lands seaward of the 100 fathom curve off the coast of St. Croix beginning at a point 17°40'30" North and ending at a point 17°46'30" North as depicted on Coast and Geodetic Survey Chart Numbered 25250, Third Edition; Title: St. Croix, Virgin Islands Underwater Range, and (3) the submerged lands seaward of the Underwater Range Operational Control Center, St. Croix, Virgin Islands presently leased to the Department of the Navy and described as Plot #18 of Estate Sprat Hall subdivision, located in northside Quarter "A", St. Croix containing 4.84 acres of land. All of the above lands within the territory of the Virgin Islands shall be under the administrative jurisdiction of the Department of the Navy.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of February, in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred and ninety-ninth.

GERALD R. FORD

No. 4348

Feb. 4, 1975, 40 F.R. 5131-5133

AMERICAN HEART MONTH, 1975

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA
A PROCLAMATION

An estimated 28.5 million Americans suffer from some form of heart and blood vessel disease. These diseases cause more than one million deaths each year. Approximately twenty-five percent of these deaths occur among persons under age 65.

1971

"outer continental shelf"

- All submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in the 1983 Act, and of which the seabed and subsoil appertain to the United States and are subject to its jurisdiction and control.

→ All lands

§ 1301. Definitions

When used in this subchapter and subchapter II of this chapter—

(a) The term "lands beneath navigable waters" means—

(1) all lands within the boundaries of each of the respective States which are covered by nontidal waters that were navigable under the laws of the United States at the time such State became a member of the Union, or acquired sovereignty over such lands and waters thereafter, up to the ordinary high water mark as heretofore or hereafter modified by accretion, erosion, and reliction;

(2) all lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coast line of each such State and to the boundary line of each such State where in any case such boundary as it existed at the time such State became a member of the Union, or as heretofore approved by Congress, extends seaward (or into the Gulf of Mexico) beyond three geographical miles, and

(3) all filled in, made, or reclaimed lands which formerly were lands beneath navigable waters, as hereinabove defined;

(b) The term "boundaries" includes the seaward boundaries of a State or its boundaries in the Gulf of Mexico or any of the Great Lakes as they existed at the time such State became a member of the Union, or as heretofore approved by the Congress, or as extended or confirmed pursuant to section 1312 of this title but in no event shall the term "boundaries" or the term "lands beneath navigable waters" be interpreted as extending from the coast line more than three geographical miles into the Atlantic Ocean or the Pacific Ocean, or more than three marine leagues into the Gulf of Mexico;

(c) The term "coast line" means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters;

(d) The terms "grantees" and "lessees" include (without limiting the generality thereof) all political subdivisions, municipalities, public and private corporations, and other persons holding grants or leases from a State, or from its predecessor sovereign if legally validated, to lands beneath navigable waters if such grants or leases were issued in accordance with the constitution, statutes, and decisions of the courts of the State in which such lands are situated, or of its predecessor sovereign: *Provided, however*, That nothing herein shall be construed as conferring upon said grantees or lessees any greater rights or interests other than are described herein and in their respective grants from the State, or its predecessor sovereign;

(e) The term "natural resources" includes, without limiting the generality thereof, oil, gas, and all other minerals, and fish, shrimp, oysters, clams, lobsters, sponges, kelp, and other marine animal and plant life but does not include water power, or the use of water for the production of power;

(f) The term "lands beneath navigable waters" does not include the beds of streams in lands now or heretofore constituting a part of the public lands of the United States if such streams were not meandered in connection with the public survey of such lands under the laws of the United States and if the title to the beds of such streams was lawfully patented or conveyed by the United States or any State to any person;

(g) The term "State" means any State of the Union;

(h) The term "person" includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation.

(May 22, 1953, ch. 65, title I, § 2, 67 Stat. 29.)

SHORT TITLE

Section 1 of act May 22, 1953 provided that: "This Act [enacting subchapters I and II of this chapter] may be cited as the 'Submerged Lands Act'."

Section 1 of act Aug. 7, 1953, ch. 345, 67 Stat. 462, provided that: "This Act [enacting subchapter III of this chapter] may be cited as the 'Outer Continental Shelf Lands Act'."

SEPARABILITY OF PROVISIONS

Section 11 of act May 22, 1953, provided that: "If any provision of this Act [enacting subchapters I and II of this chapter], or any section, subsection, sentence, clause, phrase or individual word, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase or individual word to other persons and circumstances shall not be affected thereby; without limiting the generality of the foregoing, if subsection 3(a)(1), 3(a)(2), 3(b)(1), 3(b)(2), 3(b)(3), or 3(c) [section 1311(a)(1), (a)(2), (b)(1), (b)(2), (b)(3), (c) of this title] or any provision of any of those subsections is held invalid, such subsection or provision shall be held separable and the remaining subsections and provisions shall not be affected thereby."

NAVAL PETROLEUM RESERVE

Section 10 of act May 22, 1953, revoked Ex. Ord. No. 10426, Jan. 16, 1953, 18 F.R. 405, "insofar as it applies to any lands beneath navigable waters as defined in section 2 hereof [this section]". Ex. Ord. 10426 set aside certain submerged lands as a naval petroleum reserve and transferred functions with respect thereto from the Secretary of the Interior to the Secretary of the Navy.

APPLICATION TO STATE OF ALASKA

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 32-9, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

Applicability of subchapters I and II of this chapter to the State of Alaska, see section 6(m) of Pub. L. 85-508, set out as a note preceding section 21 of Title 48.

APPLICATION TO STATE OF HAWAII

Applicability of this chapter to the State of Hawaii, see section 5(l) of Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 6, set out as a note preceding section 491 of Title 48, Territories and Insular Possessions.

SECTION REF

This section is r 1340, 1811 of this ti

§ 1302. Resources

Nothing in this of this chapter sl wise the rights o ural resources of seabed of the Co and outside of t gable waters, as title, all of whic to the United St control of which firmed.

(May 22, 1953, ch

§ 1303. Amendment laws

Nothing in this of this chapter modify, or repeal Stat. 251), July 9 1877 (19 Stat. 377 and December 22 amendatory there (May 22, 1953, ch

RE

Act July 26, 1866 (act July 26, 1866, c classified to the Cod

Act July 9, 1870 (1 act July 9, 1870, ch. sified to the Code.

Act March 3, 1877 is act Mar. 3, 1877, which enacted sectic of this title. For con the Code, see Tables

Act June 17, 1902 is popularly known classified generally For complete classifi Short Title note set and Tables.

Act December 22, text, is act Dec. 22 amended, which enations 480d and 825s tions 701-1, 701a-1, tion and Navigable V Title 33, and enacted section 701f of Title this Act to the Code.

SUBCHAPTER II
GABLE WA
BOUNDARIES

SUBCHAPTER REF

This subchapter is 1303, 1335, 1631, 163; title 33 section 941.

§ 1311. Rights of the

(a) Confirmation an ership of lands ministration, lea

It is determinec public interest thi



General Assembly

Distr.
GENERAL

A/RES/41/25
7 January 1987

Forty-first session
Agenda item 19

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[on the report of the Fourth Committee (A/41/760)]

41/25. Question of Guam

The General Assembly,

Having considered the question of Guam,

Having examined the relevant chapters of the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, 1/

Recalling its resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, and all other resolutions and decisions of the United Nations relating to Guam, including in particular its resolution 40/42 of 2 December 1985,

Conscious of the need to ensure the full and speedy implementation of the Declaration in respect of the Territory,

Having heard the statement of the representative of the United States of America, as the administering Power, relating to Guam, 2/

Noting the statement by the representative of the administering Power that the Guam Commission on Self-Determination, which was appointed in February 1984, has completed its work on the draft text of a Commonwealth Act,

1/ A/41/23 (Part III), chap. III; A/41/23 (Part III), chap. V; and A/41/23 (Part VI), chap. IX.

2/ See A/C.4/41/SR.13, paras. 59, 62 and 63.

self-determination and calls upon the United States of America, as the administering Power, in co-operation with the territorial Government, to expedite the process of decolonization strictly in accordance with the expressed wishes of the people of the Territory;

5. Takes note of the statement by the representative of the administering Power that should the Guamanian voters approve it in a plebiscite planned for 1987, the draft text of a Commonwealth Act proposed by the Guam Commission on Self-Determination will be submitted to the United States Congress for consideration;

6. Reaffirms its strong conviction that the presence of military bases and installations in the Territory could constitute a major obstacle to the implementation of the Declaration and that it is the responsibility of the administering Power to ensure that the existence of such bases and installations does not hinder the population of the Territory from exercising its right to self-determination and independence in conformity with the purposes and principles of the Charter of the United Nations;

7. Urges the administering Power to continue to take all necessary measures not to involve the Territory in any offensive acts or interference against any other States and to comply fully with the purposes and principles of the Charter, the Declaration and the resolutions and decisions of the General Assembly relating to military activities and arrangements by colonial Powers in Territories under their administration;

8. Reaffirms the responsibility of the administering Power, under the Charter, to promote the economic and social development of Guam and, in that connection, calls upon the administering Power to take further steps to strengthen and diversify the economy of the Territory, with a view to reducing its economic dependence on the administering Power;

9. Reiterates that one obstacle to economic growth, and particularly to agricultural development, stems from the fact that large tracts of land are held by the United States federal authorities, and calls upon the administering Power, in co-operation with the territorial Government, to expedite the transfer of land to the people of the Territory;

10. Calls upon the administering Power to support measures by the territorial Government aimed at removing constraints to growth in the areas of agriculture and commercial fishing and to ensure the development of those areas to the fullest extent;

11. Urges the administering Power, in co-operation with the territorial Government, to continue to take effective measures to safeguard and guarantee the right of the people of Guam to the natural resources of the Territory, including marine resources within its exclusive economic zone, and to establish and maintain control over the future development of those resources and requests the administering Power to take the necessary steps to protect the property rights of the people of the Territory;

12. Reaffirms the importance of continued efforts by the territorial Government, with the support of the administering Power, towards promoting the Chamorro language and culture;

13. Requests the Special Committee to continue the examination of this question at its next session, including the possible dispatch of a further visiting mission to Guam at an appropriate time and in consultation with the administering Power, and to report thereon to the General Assembly at its forty-second session.

52nd plenary meeting
31 October 1986

aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement."⁶⁴

Two General Assembly resolutions amplify the United Nations' view of territories. Resolution 1514 calls for immediate steps to transfer all powers to the people of trust and non-self-governing territories "in accordance with their freely expressed will and desire."⁶⁵ Resolution 1541, passed a day later, establishes principles for determining when a territory reaches "a full measure of self government."⁶⁶ Three options are recognized: independence, free association with an independent state, and intergration with an independent state. The United Nations has formally recognized the free association status of Puerto Rico⁶⁷ and of the Northern Marianas.⁶⁸

These three documents do not, of their own force, require action on the part of the United States. The Charter and the two resolutions provide the international norms under which the United States and the territories may mutually decide the terms of their relationship. There is an obligation on the United States to promote the development of the territories while protecting their free choice of political status. This is not inconsistent with the view of the territorial clause as promoting the political and economic development of the territories.

SOURCE UNKNOWN

II

The United States has not signed the United Nations Convention on the Law of the Sea because of Objections to its deep seabed mining provisions. Nevertheless, the United States "will continue to exercise its rights and fulfill its duties in a manner consistent with international law, including those aspects of the Convention which either codify customary international law or refine and elaborate concepts which represent an accommodation of the interests of all States and form a part of International law"⁶⁹ The presidential statement accompanying the exclusive economic zone proclamation contains similar language.⁷⁰ The body of the Convention contains only one reference to territories. Article 305(1) provides that self-governing associated states and internally self-governing territories "which have competence over the matters governed by this Convention including the competence to enter treaties in respect of those matters" may sign the convention. Accompanying Resolution III declares that in the case of territories which have not achieved a self-governing status recognized by the United Nations, the Convention's provisions "shall be implemented for the benefit of the people of the territory with a view to promoting their well-being and development." the

⁶⁴U.N. Charter art. 73(b).

⁶⁵G.A. Res. 1514, 15 U.N. GAOR Supp. 16, at 66 (1960).

⁶⁶G.A. Res. 1541, 15 U.N. GAOR Supp. 16, at 29 (1960).

⁶⁷G.A. Res. 748 (VIII)(1953).

⁶⁸T.C. Res. 2183 (LIII)(1986).

⁶⁹Declarations Made Upon Signature of the Final Act at Montego Bay, Jamaica, on 10 December 1982-United States of America. (Quoted in Theutenberg, The Evolution of the Law of the Sea 223 (1984)).

⁷⁰Statement on United States Oceans Policy, 19 Weekly Comp. Pres. Doc. 383 (1983).

former provision recognizes that territories may achieve a degree of autonomy allowing them to participate in international matters. The Cook Islands and Niue, states associated with New Zealand, have signed the LOS Treaty under article 305(1).⁷¹ Resolution III restates the commitments of article 73 of the Charter and of resolutions 1514 and 1541. They both reiterate international norms compatible with United States territorial management.

III

Where there is no treaty or other explicit source, international law may be ascertained from "the customs and usages of civilized nations."⁷² A 1978 study reviewed the law and practice of six nations with respect to their overseas territories.⁷³ The study found as a general rule that metropolitan powers with overseas territories or associated states have either given the population of the overseas territory full and equal representation in the national parliament and government or have given the local government of the overseas territory jurisdiction over the resources of the exclusive economic zone. The former category includes Denmark (Farø Islands and Greenland), France (overseas departments and territories), and Spain (Canary Islands). The second category includes Great Britain (Caribbean Associated States), New Zealand (Cook Islands and Niue), and the Netherlands (Netherlands Antilles). While small, this study includes all instances of overseas territories having no, or token, representation in the metropolitan government. The study concludes that the United States represents the sole significant exception to the rule, American territories have neither full representation nor local control of the exclusive economic zone.

While some information in this study is no longer current (for example, the Caribbean Associated States are now fully independent nations), its conclusion still seems correct. British practice, as exemplified by the recent declaration of an exclusive fisheries zone around the Falkland Islands, is for the national government to establish policy and for the territorial government to implement it. Thus, the Falklands government will decide on the optimum level of fishing, issue licenses, establish and collect fees and taxes. London will provide advice and technical assistance.⁷⁴

The practice of the Netherlands is similar. Matters of broad policy are decided in the Hague, with consideration given to the preference of the Antilles. Exploration and management would be in the hands of the Antilles and the benefits from production would go to the islands.⁷⁵

⁷¹Status report, U.N. Convention on the Law of the Sea, ST/LEG/SER.E14 at 701 (1985).

⁷²The Paquete Habana, 175 U.S. 677, 700 (1900).

⁷³T.M. Franck, Control of Sea Resources by Semi-Autonomous States (1978).

⁷⁴Conversation with Mr. Embleton, British Embassy, Dec. 10, 1986.

⁷⁵Conversation with Mr. Henriquez, Embassy of the Netherlands, Dec. 10, 1986.

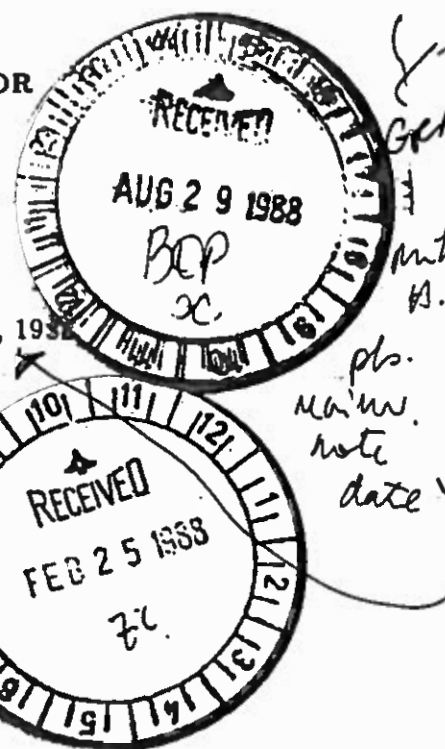
Conclusion

Though relatively recent, the exclusive economic zone is a generally accepted concept of international law. The United States based its proclamation on international law and declared its intent to follow that law in managing the zone. The declarations of the United Nations, the Law of the Sea Convention, and the practice of other nations are not, of themselves, mandatory upon the United States. Taken as a whole, however, they outline international norms for the treatment of territories. These norms suggest that if territories are not fully integrated (and represented) in the national government, their natural resources should be managed for the benefit of the local population.

UNITED STATES DEPARTMENT OF THE INTERIOR

Geological Survey
Branch of Pacific Marine Geology
345 Middlefield Road, MS 999
Menlo Park, California 94025

February 23, 1988



Mr. Peter R. Barcinas
Director
and
Mr. William Fitzgerald
Chief, Division of Economic Development and Planning
Department of Commerce
Suite 601, GITC Building
590 S. Marine Drive
Tamuning, Guam 96911

Dear Peter and Bill:

Enclosed is a draft proposal for a USGS-Guam marine geology research program, prepared for your review and comments.

Please note that this proposal is a preliminary draft, not intended for wide circulation. Recall that we agreed to send a draft for your comments prior to submitting a formal proposal, which must be done through our State Department. Please discuss the proposal with the appropriate Guam officials and send us your comments so that we may prepare a final version.

Best regards,

H. Gary Greene

Monty A. Hampton

Tracy L. Vallier

PETER & BILL -

SORRY TO HAVE MISSED YOU -

I LOOK FORWARD TO HEARING FROM
YOU RE THE PROPOSAL.

Monty Hampton

**DRAFT PROPOSAL
FOR
USGS MARINE GEOLOGIC RESEARCH
IN
GUAM**

INTRODUCTION

Recent world-wide interest in ocean resources and the concerns of Micronesian nations have made this an opportune time for Guam to assess its marine mineral and hydrocarbon resource potential and to take advantage of available equipment and expertise of the U.S. Geological Survey (USGS). (Such assessments will not only benefit the people of Guam, but also will help the U.S. federal government plan for future resource expansion in the western Pacific.) This multi-element proposal describes a USGS scientific program that will provide critical geologic information to help the Guam government make informed decisions in evaluating their hard mineral (cobalt-rich ferromanganese crusts) resources, for understanding the relationship between seafloor topography and the location of fish resources, and for assessing geologic hazards. Furthermore, the program will outline regions where hydrocarbon accumulations may occur by providing a better understanding of the region's geologic framework. Proposed coastal and nearshore studies and a coastal processes workshop will help government officials make appropriate decisions concerning land use in the coastal and nearshore regions and to assist in the exploration for sand and gravel deposits.

This proposal is based on the assumption that the Guam Exclusive Economic Zone (EEZ) extends about 360 km (200 nautical miles) to the east and the west of Guam and to the midpoint between Guam and Rota and Guam and Ulithi Atoll (Federated States of Micronesia), to the north and south, respectively. As such, the Guam EEZ roughly comprises about 200,000 km² of ocean.

For more than 20 years, the USGS has been assessing the mineral potential and geologic processes of the US continental margins and other Pacific coastlines. Recently, marine geologists and geophysicists at the USGS Office of Energy and Marine Geology, Pacific Marine Geology Branch completed a major marine resource and environmental program for the southwest Pacific nations of the CCOP/SOPAC organization—namely Tonga, Fiji, Solomon Islands, Vanuatu, and Papua-New Guinea. The intent and applications of the SOPAC program are largely the same as in this proposal. Also, the USGS has conducted pioneering research of marine metallic deposits on Pacific seamounts and oceanic spreading centers, as well as an unprecedented seafloor mapping program. Because of the experience and expertise of the scientists and the successful operation and completion of similar programs, the USGS is the best qualified organization to design, execute, and successfully complete all of the investigations described in this proposal.

GEOLOGIC SETTING

The geologic setting of Guam and the rest of the Mariana islands region is somewhat unusual in the world's oceans because of the diversity and number of geologic provinces that lie within the EEZ. The islands and seamounts on the Mariana ridge make a chain that is broadly convex toward the central Pacific Ocean; the Mariana islands not only comprise one segment of a long volcanic chain that extends more than 2000 km from Tokyo to offshore Guam, but also is part of the Pacific "Ring of Fire" that both volcanically and seismically rims the Pacific Ocean.

The geologic setting is unusual and complex because the EEZ includes six major geologic provinces. From east to west these are 1) the deep Pacific crustal plate (which includes Mariana basin and the Magellan seamounts), 2) the Mariana trench, 3) an unnamed, but large, forearc ridge and basin, 4) a volcanic arc axis (including the line of active volcanoes and the other shallow parts of Mariana ridge), 5) an extensional backarc basin (Mariana trough), and 6) a remnant arc (West Mariana ridge or South Honshu ridge).

Ancient volcanoes on the Pacific crustal plate, now deeply submerged, formed far to the east of Guam and have been traveling slowly to the northwest, approximately parallel to the Hawaii Islands chain, since about 43 million years ago. The Pacific plate is being consumed (subducted) beneath the arc at the Mariana trench. The earthquakes that occur along the fault that separates the lower (Pacific) plate from the upper (Philippine) plate defines the Wadati-Benioff zone that dips about 30 degrees to 150 km depth and then plunges nearly vertically to more than 600 km.

The islands of Saipan, Tinian, Rota, and Guam on the Mariana ridge are really part of the forearc (region between the active volcanoes and the trench) and were uplifted above sea level during the last few million years. Other parts of the forearc include a steep inner trench wall, a forearc ridge, and a forearc basin that has trapped sediment, in places several kilometers thick, during the arc's evolution. The volcanic axis of the Mariana ridge extends along the chain of active volcanoes from the northern extent of the northern Mariana islands, south through Maug and Sarigan islands, then on to the submerged volcanoes (Ruby seamount, Esmeralda bank near Tinian Island, and Tracey seamount west of Guam). Because these seamounts are active submarine volcanoes they may well grow above sea level and become islands.

West of the Mariana ridge, a backarc basin (Mariana trough) is increasing in area by the processes of crustal extension and seafloor spreading. As a result, the West Mariana ridge (South Honshu ridge)—a remnant arc—is slowly separating from Mariana ridge. About 3 to 4 million years ago, it was attached to what is now the Mariana ridge and was then the main volcanic axis of the arc. The West Mariana basin lies west of the remnant arc and is the result of a much earlier phase of backarc spreading.

In summary, the Guam region is geologically dynamic with ancient Pacific Ocean crust currently being subducted under the Mariana island arc along a seismically active Wadati-Benioff zone. Young volcanoes form an arc that is convex toward the central Pacific Ocean. Seafloor spreading is occurring in the Mariana ridge from West Mariana (South Honshu) ridge, which is now a remnant arc.

DESCRIPTION OF PROGRAM ELEMENTS

Element 1: Ferromanganese Crusts

We propose to use 14 ship days to sample seamounts that may have cobalt-rich ferromanganese crusts. The existing knowledge of ferromanganese crusts in the Guam region is limited and based on samples from only six seamounts and ridges along the Mariana ridge north of Saipan that were collected onboard the research vessel *Thomas B. Thompson* in 1985. The objective of the cruise was to sample volcanic rocks from the seamounts in order to determine their origin and evolution; the ferromanganese crust study was a very minor part of the cruise objectives.

Ferromanganese crusts, enriched in cobalt, nickel, platinum, lead, titanium, and some rare earth elements, in addition to the abundant iron and manganese, have been recovered from several seamounts and ridges in the west central Pacific ocean, particularly around the Marshall and Line island groups. For example, data obtained from crusts in only a few dredge hauls from seamounts in the Republic of the Marshall Islands suggest a relatively high future potential for exploitable resources. According to criteria developed by Hein et al, (1986, 1987), listed below, ferromanganese crusts from seamounts in the Guam EEZ, in similar geologic and oceanographic settings, should be studied to determine their economic potential.

Seamounts and ridges in three areas of the Guam EEZ warrant studies of their ferromanganese crusts: 1) deep Pacific basin east of the trench (best potential); 1) Mariana ridge (least potential); and 3) West Mariana ridge (completely unknown, but probably has some potential).

We believe that seamounts east of the Mariana trench within the Guam EEZ have the best potential for cobalt-enriched ferromanganese crusts. This interpretation is based on our success from work completed in the west central Pacific Ocean during the last few years. Our selection of specific seamounts, ridges, and guyots (large flat-topped seamounts) is based on the following criteria (Hein et al., 1986, 1987).

1. The edifices, mostly volcanic, should be shallower than 1500 meters (can be as deep as 2500 meters)
2. Substrate should be older than 20 million years
3. Seamounts should be swept by strong currents
4. Volcanic structures should not be capped by large modern atolls or reefs
5. Slopes should be stable
6. A shallow and well-developed oxygen-minimum zone should exist
7. There should be an absence of local volcanism
8. Areas should be isolated from input of abundant fluvial and colian debris

Although not considered in the exploration criteria, several points should be emphasized about the economic (exploitation) criteria. The cobalt content should be greater than 0.8%, the average crustal thickness should be greater than 4 cm, and sufficient reserves must be present. A relatively high platinum content is important in order to make the deposit economic. The topography of the seafloor must be subdued, and areal sediment cover of bedrock should be less than 40 to 60%. Furthermore, nearness to ports, the price of metals, and the state of mining technology are important considerations.

The geologic history of the most promising edifices, which lie east of the Mariana trench, is particularly important, as are the oceanographic conditions that existed during the past 20 to 30 million years. Most of the volcanoes, we believe, were erupted 85 to 80 million years

ago; some may be as old as 110 to 100 million years. The large, flat-topped volcanoes (guyots) evolved through a history of rapid growth during which they reached sea level and probably grew to heights of 1 to 3 thousand meters within a few million years; subsequent erosion and subsidence to sea level occurred with synchronous growth of coral reefs which, in places, formed atolls. Further subsidence to a level below the photic zone killed reef-building organisms. Slow growth on reefal and volcanic substrate in the oxygen-minimum zone might have created favorable ferromanganese crusts. The edifices are relatively stable so that many of the other exploration criteria are met. In places, currents have no doubt kept sedimentation at a minimum, thereby encouraging the slow growth of metals on the bedrock substrate.

The other two areas do not have as much potential for containing exploitable deposits of ferromanganese crusts. In 1985 we dredged several seamounts and ridges along the Mariana ridge and obtained chemical analyses of crusts in six dredge hauls (Hein et al, 1987). The crusts do not contain as much cobalt, on the average, as those from the west central Pacific, but the concentrations still are greater than for those obtained during our work in the Tonga arc. A very interesting discovery, and one that should be examined more closely, is that the ferromanganese crusts from the Mariana ridge have a higher content of molybdenum than found in crusts elsewhere. The importance of this high concentration of molybdenum is unknown, but it definitely should be considered in any future work along the Mariana ridge.

Element 2: Seafloor Swath Mapping

We propose to map the entire EEZ of Guam (about 200,000 km²) below a seafloor depth of 300 meters using the GLORIA (Geological LONG Range Inclined Asdic) system. This will require about 20 days of ship time. The mapping program will complement all other oceanographic endeavors, not only the USGS programs, but also future programs of seafloor and sub-bottom investigations and studies of living resources. The GLORIA technique of mapping is a rapid and relatively inexpensive method of constructing medium resolution, reconnaissance images of the seafloor. GLORIA images can be used as base maps for fisheries studies (e.g., location of seamounts as fish habitats), mineral exploration (e.g., location and morphology of seamounts for ferromanganese crust studies), geologic hazard studies (e.g., identification of oversteepened seafloor slopes where slumping may occur and the mapping of faults), and seafloor utilization (e.g., seafloor morphology for planning subsea cable routes).

The GLORIA images are similar in appearance to aerial photo-mosaics of the land surface. Geologic features larger than about 100 meters in plan dimension and 1 meter in vertical dimension appear on the images. Other types of geologic data are collected during GLORIA operations, including medium- and high-resolution seismic-reflection profiles that reveal the geologic features up to a depth of 1 kilometer below the seafloor along the tracklines, bathymetry, and gravity- and magnetic-field measurements. These data significantly augment the GLORIA images for geologic interpretations.

Overall, the GLORIA system probably is the best available system for regional reconnaissance mapping of the seafloor. Other side-scan sonar systems exist with higher resolution capability and are more appropriate for certain applications, in particular in shallow water and for obtaining detailed views of small areas. The GLORIA mosaics clearly show most large-scale geomorphic and sedimentologic features of the seafloor. When properly interpreted within the constraints of the sonographic technique, the mosaics can be an invaluable base for deciphering marine geologic structures and processes, for planning scientific expeditions, and for making decisions regarding use of the seafloor.

Element 3: Geologic Framework Studies Applied to Hydrocarbon Assessment

We propose to undertake 22 days of geophysical (including multichannel seismic-reflection profiling) studies and sampling to collect data for understanding the geologic framework of Guam that will be used in assessing offshore hydrocarbon potential. An understanding of the geologic history of an area is vitally important for locating oil and gas accumulations and most mineral deposits. "Framework studies" as used here includes studies of not only the spatial relationships (e.g., seafloor and underlying rock strata), but also the timeframe when geologic features developed. When both spatial relationships and time are considered, we can attempt a reconstruction of an area's geologic history which will lead to better interpretation of resource and hazard potentials.

Joshua Tracey of the USGS summarized the potential of hydrocarbon accumulations in the island arc regions of the western Pacific in a 1981 reported (Appendix A attached). We use some of his conclusions here.

"The tremendous oil production from Indonesia and developing production from Palawan (Philippine Islands) and Irian Java has focused attention on the reservoir potential of Miocene reefs in island arcs. By all conventional logic, however, the possibility of petroleum accumulations in oceanic arc far from continental sedimentation has been discounted by most geologists. In 1968, however, 2 oil seeps were discovered in Tonga on the island of Tongatapu."

The three wells drilled by Webb Oil Company on Tongatapu were dry, but a potential still exists in the Tonga island arc based on further studies by petroleum companies and through our interpretations following the USGS CCOP/SOPAC studies in 1982 and 1984.

Tracey also commented specifically on the oil potential in the southern Mariana islands,

"Guam and Saipan in the southern Marianas have a geologic history similar in many respects to Tonga. Both are formed of Eocene volcanoclastic rocks containing shallow-water reefal limestone fragments showing all facies of back-reef and fore-reef development, indicating the former presence of extensive reef beds. Lower and middle Miocene reef are present also, showing a long history of shallow water reef development between periods of volcanic activity."

Tracey further commented on data needs.

"What would be most useful are multichannel seismic lines over the shallower parts of the southern Mariana ridge near the larger islands of relatively well known geologic history. These should follow an onland re-evaluation of the island geology to test current concepts, many of them controversial, of arc-trench development. Suites of samples from all rock environments should be made for geochemical and organic chemical analysis."

We propose two long E-W multichannel seismic lines across the EEZ of Guam; one would be just north of Guam and the other south of Guam and across Santa Rosa reef. We also would place at least two long lines parallel to the trench and east of Guam and at least one N-S line in the Mariana trough. The other lines would be shorter and will be picked according to our best interpretations of the region's geologic framework; most will be picked during the seismic program. The total trackline distance we recommend will be about 32,400 km. The seismic data will be complemented by bathymetric, gravity, magnetic, and sonobuoy-derived interval velocities. Combined with drilling results obtained farther north on the Mariana ridge (IPOD, Leg 60) and other onshore and offshore data from the arc, preliminary estimates can be made concerning hydrocarbon and mineral resources. We will be able to identify areas where future efforts should be focused.

Element 4: Coastal and Nearshore Studies

This element addresses problems of coastal erosion, sediment accumulation (including identification of sand and gravel deposits), and other coastal processes. In this element we propose two aspects of coastal and nearshore studies. The first is a two-week coastal workshop that will be used to educate Guam government officials and teachers in nearshore and coastal processes so that they can make knowledgeable decisions concerning land use in the coastal areas. The second is one month of field work that is focused on specific problems in the coastal regions. We anticipate that both the coastal workshop and coastal research will be carried out with University of Guam researchers.

A major aspect of the coastal workshop is education. Because Guam government officials have to make wise decisions about land use in the fragile coastal zone, we propose a two-week course where government officials, other government employees, and educators can learn about coastal processes. In this two-week course, USGS geologists and Guam participants will appraise coastal erosion, determine the processes responsible for erosion, discuss methods for solving problems, and learn exploration methods for finding sand and gravel deposits. Littoral and storm drift can be assessed and beach profiling will be done to monitor the erosion and deposition in specific areas. Bottom mapping and geologic evaluation of the lagoonal areas can be undertaken to teach the Guam participants how to identify potential sand and gravel deposits, determine sediment transport pathways, and locate coral outcrops and rubble mounds.

Upon completion of the workshop, the second part of this element can be addressed. After consultation with the government officials of Guam, sites for additional coastal and nearshore studies will be finalized. The USGS can then assist as the need and funding dictate. We are unsure how long such investigations might require, but a month of work by two USGS geologists should be helpful for identifying problems and recommending solutions.

INVESTIGATIVE TECHNIQUES

The USGS research vessel *S.P. Lee* will be used for the geological framework (hydrocarbon) mapping and ferromanganese crust program elements. The *Lee* is a 208-foot-long Auxillary General Oceanographic Research Vessel (AGOR). It is fully equipped to conduct marine mapping, geophysical, and sampling operations. Shipboard scientific operations are carried out 24 hours per day, and several data systems generally operate simultaneously throughout a survey. The scientific equipment pertinent to the proposed program is listed below:

1. Mapping

- GLORIA wide-swath, medium resolution side-scanning sonar seafloor mapping system, with onboard computerized digital data acquisition and processing capability for producing mosaic images of the seafloor
- EG&G Seafloor Mapping System, narrow swath, high resolution, digital data acquisition

2. Geophysical

- Shallow to intermediate penetration, single channel seismic-reflection profiler (air-gun acoustic source)
- Deep penetration, multichannel seismic-reflection profiler (air-gun acoustic source)
- High-resolution seismic-reflection profiler (hull-mounted Uniboom)
- High-resolution 3.5 kHz seismic-reflection profiler
- 12 kHz bathymetric profiler
- Proton-precession magnetometer or gradiometer

- Stable platform gravity meter
- 3. Geological
 - Chain bag and pipe dredges
 - Gravity corer
 - Dart corer
 - Miscellaneous seafloor samplers
 - Underwater TV and stereo photograph camera systems
- 4. Navigational
 - GPS high-resolution positioning system
 - Integrated satellite positioning system
 - Sonar doppler positioning system
 - LORAN
 - RADAR

Element 1: Ferromanganese Crust Sampling and Analysis

Dredging the flanks of seamounts is the main activity for collecting ferromanganese crust samples, preceded by high-resolution seismic-reflection surveys to identify the most likely location of thick crusts (e.g., sediment-free, flat areas), and followed by bottom camera (TV and still photographs) surveys to determine the small-scale morphology of the sample sites and crust distribution.

The thickness of crust is measured for each sample in each dredge haul, then averaged for each seamount. Chemical analyses of a selected set of crust samples provides information about the metals content of the crusts in addition to the regional variability of metals content, data essential to assessing the economic potential of the crusts and determining the best locations for later site-specific surveys. Camera surveys (TV and still photos) in areas of high crust recovery give important information about the areal continuity of crust deposits and about the small- to medium-scale roughness of the seafloor, which is important for developing an efficient crust-recovery technology.

Element 2: Seafloor Swath Mapping

The GLORIA system operates by the periodic transmission of strong acoustic pulses, centered around 6.5-kHz frequency and with 100-Hz bandwidth, from a total of 120 transducers housed in two banks along the port and starboard sides of an 8 meter (26 feet) long towfish. In water depth greater than about 2,000 meters (6,500 feet) and at a pulse-repetition rate of 30 sec, the acoustic energy strikes a swath of seafloor that extends to a distance of about 20 kilometers (12 miles) laterally on each side of the trackline and is backscattered with a strength that depends on the topography and hardness of the seafloor. The strength of the backscattered energy sensed by the transducers is digitally encoded onto magnetic tape, computer processed to make geometric corrections, and transmitted to a camera that produces a line-by-line (pulse-by-pulse) photo-acoustic image on which the strongest backscatter returns appear white and the weakest appear black. Placement of the images along a properly scaled rendering of the ship's tracklines forms a mosaic image of the seafloor.

The mosaics are constructed during the surveys using onboard processing equipment, typically at a 1:500,000 scale. Because the data are in digital format, they can be subjected to a multitude of computer-aided image processing and enhancement techniques. Final, high quality mosaics are produced in the shore-based laboratories using standard processing techniques that include removal of the water column, slant-range and anamorphic shape corrections, high- and low-pass filtering, near- to far-range shade balancing, and optimal

contrast stretching over a 256 DN range.

The GLORIA towfish is towed behind the ship at a speed of 8 to 10 knots, along straight segments of trackline nominally spaced at 20 kilometers (16 nautical miles) in deep water (>2,000 meters). The surveys are less efficient in successively shallower depths because a narrower swath of seafloor is insonified, and tracklines must be more closely spaced. Because of the configuration of the deployed system, and because of narrow insonification widths, the GLORIA system is not used in water depths less than about 300 to 400 meters (1,000 to 1,300 feet). Under ideal operating conditions, approximately 8,000 square kilometers (3,000 square miles) of seafloor are imaged per day.

Element 3: Geologic Framework Studies

The major tools for framework studies are the multichannel seismic reflection system, magnetometer, gravity meter, dredges, and other sampling devices. The multichannel seismic system onboard the ship includes an array of air guns that provide the sound source, a hydrophone streamer more than two kilometers long that contains the listening devices, various tape drives and recorders, and various monitors to make certain that data are being recorded.

In appropriate geologic conditions, such as in basins that contain thick accumulations of sediments, the system can penetrate as much as 10 kilometers and record multiple acoustic reflectors as close as 50 meters apart within that interval. Folds, faults, possible stratigraphic traps, and buried reefs can be interpreted from the records, particularly after the data have been processed by computers onshore after the cruise.

The gravity and magnetic data complement the seismic profiles by providing data on total field intensities and on such things as rock density (and thereby thickness of sediment accumulations in basins) and magnetic susceptibility of the rocks (one can interpret whether a structure is cored by igneous rocks or reefal material when both magnetic and seismic data are combined). Dredges are used to collect rocks from outcrops that can be traced to acoustic reflectors beneath the seafloor in the seismic profiles. In that way, age data and rock characteristics of the acoustic reflectors can be determined and from that, a better understanding of the region's geologic evolution.

Element 4: Coastal and Nearshore Studies

Onshore

1. Mapping

- Mapping of the coastline will be primarily observational
- Stadia-rod and transit transects will be selectively made to monitor beach profile changes
- Photo interpretation and references to older maps in order to determine the historical changes of the coast line

Offshore, lagoonal

A small boat (~10 meters, 30 feet) long needs to be supplied by the Guam government, including its operational expense.

1. Geophysical

- Uniboom seismic-reflection profile system
- Sidescan sonar system
- Fathometer

2. Geological Equipment

- Small sediment cover
- Underwater TV/still photography
- 3. Navigation
 - Range-range (Mini-Ranger system)
 - Transit

PRODUCTS

The products provided to the Guam government from this program include basic data and interpretative maps and reports.

Element 1: Cobalt-Rich Ferromanganese Crusts

- Tables of cobalt crust thickness and chemical composition
- Interpretative report of cobalt crust thickness, distribution, grade, and surface morphology
- Bottom photographs and TV tapes
- Narrative cruise report including maps of station locations and navigated tracklines

Element 2: Seafloor Swath Mapping

- Computer-processed, 1:500,000-scale mosaic of GLORIA images
- Digital field tapes
- Interpretation of the GLORIA images (graphic overlay and interpretative report)
- Narrative cruise report including maps of navigated tracklines and bathymetry

Element 3: Geologic Framework Studies

- Seismic profiles
- Gravity and magnetic data and profiles
- Rock compositions and ages
- Organic carbon contents of sampled sedimentary rocks
- Interpretive reports on the geologic framework of Guam
- Maps of basins, sediment thicknesses, and major structures

Element 4: Coastal and Nearshore Studies

- Coastal maps
- Geologic map of lagoon floor
- Geologic cross-sections across islands and lagoons
- Sand and gravel deposit locations
- Report describing results of investigation

BUDGET

Element 1: Cobalt-rich Ferromanganese Crusts (14 days ship time)

	Guam	USGS
Salaries		
At sea (15 scientists)		\$19,488
During Travel (15 scientists, 4 days each)		\$5,568
Data analysis and interpretation		\$19,822
Overtime at sea (13 scientists, 44 hr/wk)	\$24,378	
Newly hired technician (quarter time)	\$10,128	
Travel (15 scientists, \$1,000/trip)	\$15,000	
Ship operations (\$13,000/day)	\$182,000	
Scientific equipment, expendables		
Dredges (3)	\$4,500	
Seismic paper	\$2,000	
Camera, film	\$1,500	
Other expendables and supplies	\$1,500	
Sample analysis		
Chemical		\$35,000
Petrologic	\$3,000	\$3,100 (salary)
Dating (paleontologic & radiometric)	\$1,500	\$9,300 (salary)
X-ray	\$1,000	\$6,200 (Salary)
Shipping	\$2,000	
Report preparation	\$1,000	\$5,000 (salary)
Sub-total	\$249,506	\$103,478
Overhead (30%)	\$74,852	\$31,043
TOTAL	\$324,358	\$134,521

Element 2: Seafloor Mapping
(20 days ship time)

	Guam	USGS
Salaries		
At sea (9 scientists)		\$20,366
During travel (9 scientists, 4 days each)		\$4,073
Data analysis,		\$29,736
Overtime at sea (7 scientists, 44 hrs/wk	\$19,480	
Newly hired technician	\$5,064	
GLORIA processing, mosaicking	\$22,500	
Travel (9 scientists, \$1,000/trip)	\$9,000	
Ship operations (\$13,000/day)	\$260,000	
Scientific expendables and supplies	\$5,000	
Report preparation	\$3,000	
Sub-total	\$324,044	\$54,175
Overhead (30%)	\$97,213	\$16,253
TOTAL	\$421,257	\$70,428

Element 3: Geologic Framework Studies for Hydrocarbon Assessment
(22 days ship time)

	Guam	USGS
Salaries		
At sea (15 scientists/9days)-		\$86,484
During travel (15 scientists, 4 days each)		\$5,568
Data analysis and interpretation (30 man months)		\$148,680
Overtime at sea (13 scientists, 44 hrs/wk)	\$76,611	
Newly hired technician (quarter time)	\$10,128	
Travel (15 scientists, \$1,000/trip)	\$15,000	
Ship Operations (\$13,000/day)	286,000	
Scientific equipment and expendables		
Dredges (2)	\$3,000	
Hydrophone streamer parts	\$5,000	
Air gun and recorder parts	\$3,000	
Seismic recorder parts and paper	\$3,000	
Sampling expendable	\$1,500	
Sample Analysis		
Chemical		\$10,000
Petrologic	\$2,000	\$6,200 (Salary)
Dating (paleontologic and radiometric)	\$1,000	\$6,200 (salary)
X-ray	\$2,000	
Sample and Data shipments	\$2,000	
Report preparation	\$3,000	\$12,400 (salary)
Sub-total	\$411,739	\$269,632
Overhead (30%)	\$123,522	\$80,890
TOTAL	\$535,261	\$350,522

Element 4: Coastal and Nearshore Studies**Part 1. Coastal workshop (14 days)**

	Guam	USGS
Salaries		
2 scientists, 14 days each		\$4,956
During travel (2 people/4 days each)		\$1,416
Per diem (2 people/14 days)	\$2,800	
Travel (2 people/\$1,000 ea)	\$2,000	
Car rental and gas (14 days)	\$700	
Expendables for course	\$100	
Shipment of materials	\$100	
Sub-total	\$5,700	\$6,372
Overhead (30%)	\$1,710	\$1,912
Part 1 TOTAL	\$7,410	\$8,284

Element 4: Coastal and Nearshore Studies**Part 2. Coastal and Nearshore Studies (28 days)**

	Guam	USGS
Salaries		
2 scientists/28 days each		\$9,912
During travel (2 scientists/4 days each)		\$1,416
Data analysis and interpretation		\$19,882
Per diem (2 people/28 days)	\$5,600	
Travel (2 people/\$1,000)	\$2,000	
Overtime	\$2,000	
Car rental and gas	\$1,400	
Equipment shipment		
Seismic equipment, side scan sonar, cables, etc	\$6,000	
Sampling equipment	\$3,000	
Equipment and expendables		
Seismic paper, seismic repairs	\$1,000	
Camera film/video tape	\$400	
Sampling expendables	\$1,000	
Sample Analysis	\$1,000	\$3,100 (salary)
Report preparation	\$1,000	\$3,100 (salary)
Sub-total	\$24,400	\$37,350
Overhead (30%)	\$7,320	\$11,205
Part 2 TOTAL	\$31,720	\$48,555

General Expenses

	GUAM		USGS
Salaries			
1 logistics person (7 days)			\$891
1 science coordinator (10 days)			\$2,478
Post cruise site visits (7 days/2 persons)			\$4,956
Ship and equipment mobilization	\$20,000*	(\$100,000/ \$11,000)	\$50,000
Scientific equipment maintenance			\$50,000
Transit (San Francisco-Guam, round trip)	\$104,000*	(\$376,000/ \$79,111)	
Sub-total	\$124,000*	(\$476,000/ \$40,111)	\$108,325
Overhead (30%)	\$37,200	(\$142,800/ \$27,033)	\$32,498
TOTAL	\$161,200*	(\$618,800/\$117,144)	\$140,823

Summary

	GUAM		USGS
Cobalt-rich ferromanganese crusts	\$324,358		\$134,521
Seafloor mapping	\$421,257		\$70,428
Geologic Framework for Hydrocarbons	\$535,261		\$350,522
Coastal and Nearshore (Parts 1 and 2)	\$39,130		\$56,839
General	\$161,200*	(\$618,800/ \$117,144)	\$140,823
GRAND TOTAL	\$1,481,206*	(\$1,938,806/\$1,437,150)	\$753,133

*The magnitude of these particular costs depends on the number of participants in a PMG-Micronesia program. We assume for these calculations a "most likely" contribution from 5 participants, but in parentheses are the maximum possible cost, if only Guam participates, and the minimum cost, for a maximum of 9 participants.

Section 24. Section 70a of the Civil Code is amended to read:

"70a. Obligatory Upon Judge, the Director of Revenue and Taxation or the Director of Administration.

The duty of solemnizing the marriage ceremony on any day shall be obligatory upon all the judges, the Director of Revenue and Taxation or the Director of Administration. The fee shall be Ten Dollars (\$10.00)."

Section 25. The provisions of Sections 1, 2 and 15 of this Act shall take effect July 1,

PUBLIC LAW NO. 15-114

Bill No. 338S

Enacted: March 24, 1980

Governor's Action: Approved

Others: None

Introduced by:

K.B. Aguan

F.R. Santos

J.T. San Agustin

J.H. Underwood

T.C. Crisostomo

E.R. Duenas

C.A. Kasperbauer

A.M. Palomo

P.F. Perez, Jr.

R.Q. Sudo

F.F. Blas

A.R. Unpingco

E.T. Charfauros

F.J. Quitugua

R.F. Taitano

C.C. Bamba

E.M. Espaldon

A.C. Lamorena III

B.M. Palomo

J.F. Quan

T.V.C. Tanaka

**AN ACT TO ESTABLISH THE TERRITORIAL BOUNDARY
AND ECONOMIC ZONE FOR THE JURISDICTION OF GUAM.**

Section 1 Redefines the territorial boundaries of Guam.

Section 2 Guam shall exercise exclusive rights over the economic zone.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Subsection (a) of 1GCA402 is amended to read:

"1402. Boundaries; Territorial.

(a) The boundaries of Guam run two hundred (200) geographical miles seaward from the low-water mark; provided, however, that where there are islands or reefs along or adjacent to the shores of Guam, the boundary line runs two hundred (200) geographical miles seaward from the outermost of such islands or reefs; provided, further, that in the case of all harbors and bays, the boundary line runs two hundred (200) geographical miles seaward from a line drawn in front of each harbor along the outermost works and installation thereof and two hundred (200) geographical miles seaward from a line drawn from headland to headland across the mouth of each bay."

Section 2. The territory of Guam shall exercise exclusive rights to determine the conditions and terms of all scientific research, management, exploration and exploitation of all ocean resources and all sources of energy and prevention of pollution within the economic zone, and to prevent pollution from outside the zone which poses a threat within the zone.

EEZ Proclamation
claims 200 Nautical
miles. Difference
of 30.1
mi.



BUREAU OF PLANNING
GOVERNMENT OF GUAM
AGANA, GUAM 96910

TO	Initial	Date
McGuire	✓	
Peter K. Guerrero		
FILED		

Memorandum

To: The Governor
From: Director, Bureau of Planning
Subject: H.R. 1260 - National Seabed Hard Minerals Act

The above bill establishes a program for the exploration and commercial recovery of hard mineral resources in the 200 mile Exclusive Economic Zone (EEZ). The Bureau of Planning has been aware of this bill since last year. In fact, a presentation for the upcoming EEZ conference in Hawaii was prepared by Michael Ham of my staff, which identified two (2) main points in the bill:

1. The bill creates a partnership in the management of the EEZ between the federal government and the coastal states, including Guam.
2. The bill provides for revenue-sharing (50% federal, 50% GovGuam).

H.R. 1260 differs from the presentation, however, in several areas.

1. We suggested that the National Oceanic & Atmospheric Administration (NOAA), U.S. Department of Commerce be responsible for issuing licenses and permits while the bill designates Department of the Interior (DOI). NOAA administers the National Ocean and Coastal Management Program while DOI administers the Outer Continental Shelf Leasing Program.
2. We suggested that coastal states & territories issue local licenses for exploration & extraction while the bill only requires federal licensing with local review.

The bill also differs from the Draft Guam Commonwealth Act which specifies that Guam shall have jurisdiction over all living and non-living natural resources in the 200 mile EEZ. The Commonwealth Act is similar to Public Law 15-114 introduced by now Lieutenant Governor Blas which establishes Guam's 200 mile EEZ.

Since we should be consistent with the draft Act and P.L. 15-114, we suggest that H.R. 1260 be revised to reflect that Guam have jurisdiction over and hence licensing authority within the 200 mile EEZ.

I have attached a response to Congressman Ben Blaz on H.R. 1260.

PETER P. LEON GUERRERO
Acting

Attachment

cc: Chrono/GCMP
Reading File
Subject File

MJCRUZ:tc/epb

SEP 30 1987

Honorable Ben G. Blaz
 United States House of Representatives
 1130 Longworth House Office Building
 Washington, D.C. 20515

Dear Congressman Blaz:

We have completed reviewing LOMRY 131, "Amendment in the Nature of a Substitute to H.R. 1260", which effects federal policy and procedures in hard mineral exploration and extraction within the exclusive economic zone.

While we find this amendment bill to be superior to the original Lowry bill in many respects, Guam's position must remain unchanged, in that through local legislation and resolution, and as a part of the draft Commonwealth Act, the resource rights within Guam's EEZ must remain under the jurisdiction of the people of Guam. In that regard, we are opposed to the inclusion of Guam in Section 103(3) of the bill. An alternative which, if understood from the broad perspective, should be acceptable to all concerned would be to include Guam within Section 103(7).

Although Guam is not a "freely associated state", the inclusion of Guam within that section would be consistent with our own pronouncements that Guam have the option of participating in the federal program, or in rejecting such participation as iterated in Section 507(a). Such participatory definition would also be logical given the geological, geographical, historical and ecological similarities between the freely associated states and Guam. The argument can also be made that, because Guam is not fully represented in the national government, international norms would dictate that EEZ resources should remain for the benefit of the local peoples, and such findings would be in line with Presidential Proclamation Number 5030, of March 10, 1983. Finally, by including Guam in the definition under Section 103(7), Guam would be exempted from the constraints of Section 313(a) and (b). Quite frankly, if Guam were to be included in this bill as currently written, those constraints would almost certainly preclude any mineral exploration or extraction activities because of the added burden of distance from those U.S. sources. Those same constraints have been noted in the past as having a detrimental effect on large scale fisheries in this area, and would have the same impact on mineral development.

Two other points with which we have disagreement also require modification. First, Section 310(b) does not allow for local input in requests for revisions to licenses or permits, while modifications do require local (Governor's) input. Second, the bill consistently calls for Coast Guard participation in monitoring and enforcement, but as you well know, the Coast Guard presence in our area has been severely curtailed.

In order for the enforcement mechanism to work, the federal government must indicate a greater commitment to the Coast Guard operations than we have witnessed in the past years.

I appreciate your efforts, on behalf of the people, in trying to ensure PS isolation, which will be of benefit to our island, and request that you address the points outlined at the earliest possible time.

Sincerely,

Joseph F. Ada
JOSEPH F. ADA
Governor of Guam

BUREAU OF PLANNING

MLHAM/PPLEONGUERRERO/tc

McCluskey		
Pleonghuan		
Special Assistant		
Lt. Governor		
Governor		
FILES		

Congressman Ben G. Blaz
1729 Longworth HOB
Washington, D.C. 20515

Dear Congressman Blaz:

This letter is in response to your request for comments on H.R. 1260. This bill proposes a realistic approach to the management of the Exclusive Economic Zone (EEZ) and addresses two major concerns of U.S. coastal states. First, it establishes a partnership between coastal states and the federal government in that coastal states will be given the authority to review applications for mineral extraction in the EEZ. Second, the bill proposes that half of the revenues derived from permits will be given to coastal states in that off-shore mining will create on-shore and near-shore impacts.

However, since H.R. 1260 is inconsistent with the draft Guam Commonwealth Act and P.L. 15-114 (both of which establish Guam's EEZ and place ownership and jurisdiction under the local government), I cannot support those provisions of H.R. 1260 that provide for federal ownership and jurisdiction over the EEZ. Therefore, I request your assistance in ensuring that Guam be given full rights and authorities over its 200 mile EEZ.

Thank you for the opportunity to provide comments.

Sincerely,

JOSEPH F. ADA
Governor of Guam

A
Leadership
Agenda:

State
Management
of Ocean
Resources

*Report and
Recommendation
of the
Ocean Resource
Committee*

*Western
Legislative
Conference*

January, 1988

Specific exploration and research is therefore needed to assess the quality and quantity of the deposits, determine the feasibility of recovery, identify environmental problems, and design commercial recovery proposals

Six types of valuable and potentially recoverable hard minerals are found within the U.S. EEZ in the Pacific Ocean. These deposits include: 1) sand and gravel, 2) heavy mineral placers, 3) phosphorites, 4) manganese nodules, 5) cobalt-rich manganese crusts, and 6) polymetallic sulfides (Coastal States Organization 1987). Commercial recovery of these deposits would provide new sources of urban building materials and supplies of strategic minerals sufficient to end U.S. dependency on foreign mineral exporters. The U.S. currently imports as many as 60 strategic minerals — including chromium, manganese, cobalt and platinum — from nations such as South Africa, Zaire and the U.S.S.R. (U.S. Congress 1985). The federal government is investigating the feasibility of mining ocean minerals off the coasts of Hawaii and Oregon and has been joined by both states on technical working groups developing baseline information and environmental impact statements on the extent and recoverability of these mineral deposits.

Findings

- Most marine mineral deposits have been mapped only at a broad reconnaissance scale. Specific exploration and research is therefore needed to assess the quality and quantity of the deposits, determine the feasibility of recovery, identify environmental problems, and design commercial recovery proposals.

- At present, there is no federal regulatory regime that defines state and territorial rights to participate in ocean mineral-mining decisions within the EEZ. In addition, no federal legislation exists requiring a multiple-use management philosophy to resolve conflicts between mineral mining and competing ocean uses.

- The environmental impacts of ocean mining are largely unknown, but would probably include the disruption of sea floor ecosystems and damage to certain commercial species, such as crabs. Surface and sub-surface impacts could occur from reduced plankton production associated with sediment clouds or plumes created at certain stages of mining.

- Onshore impacts of mining activity at sea would be similar to those associated with OCS oil and gas development, and might include a heightened demand for dock and port facilities, greater competition with other port users for space, new proposals to fill or dredge estuarine areas, and increased strain on electrical, water, waste disposal and other public facilities.

- Research and development of mineral mining technology is still in the formative stages, with some prototype equipment being designed and tested, principally for use in shallower waters.

- Commercial recovery of marine minerals is not expected in the near future, despite growing information on marine deposits. The pace of future commercial marine mining will likely hinge on fluctuating market demand for minerals, stability of international supplies of strategic minerals and development of ocean mineral-mining technology.

Recommendations

- Pacific States should support comprehensive federal legislation that establishes authoritative state roles and responsibilities in mineral exploration and leasing. If such comprehensive legislation is not passed, Pacific States should advocate amending the Outer Continental Shelf Lands Act and the Coastal Zone Management Act to establish state government authority in federally planned mineral mining.

- Pacific States should develop a strategic plan for mineral mining within territorial and federal waters. State plans should include a review of existing scientific, technical and oceanographic information on mineral deposits and the feasibility of recovery, and a review of state laws and procedures for mineral mining. Additionally, state plans should include a program to enhance coordination among state agencies and a series of amendments to existing state coastal zone management plans in order to establish state mineral-mining goals and policies.

- The U.S. Pacific Islands have special political relationships with the United States including historical and legal rights to ownership and control of the mineral resources in their respective exclusive economic zones. Comprehensive federal mineral mining legislation should recognize those rights and ensure that island mineral resources are administered for the benefit of the people of the islands.

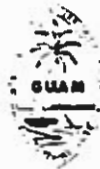


FRANKLIN J. GUTIERREZ
Vice-Speaker

Office of the Vice Speaker

Nineteenth Guam Legislature
Post Office Box CB-1
Agana, Guam 96910
Telephone: (671) 472-3405/06
Fax: (671) 477-8358

Chairman, Committee on Tourism, Transportation
and Communications



June 8, 1988

The Honorable Richard Matsuura
Member, Senate of Hawaii
Legislature of Hawaii
State Capitol
Honolulu, HI 96813

Dear Senator Matsuura:

Si Yuus Maase for your letter of May 18, 1988, and for your leadership contribution to the CSG Leadership Agenda, "State Management of Ocean Resources." The resolutions you forwarded from the Hawaii Legislature on ocean resource matters are also appreciated.

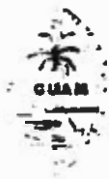
With respect to activities in the Guam Legislation on ocean resource issues, I am enclosing two resolutions adopted thus far in the Nineteenth Guam Legislature. Resolution No. 142 addresses common concerns we have regarding the funding of the Regional Aquaculture Center and Resolution No. 170 requests Congress to recognize Guam's unique historical and legal right to ownership of the Guam Exclusive Economic Zone in H. R. 1260.

Perhaps the most significant Guam policy position on ocean resources in Article 10 (Land, Natural Resources, and Utilities) of the proposed Guam Commonwealth Act (GCA). Article 10 was adopted by the people of Guam (as a distinct and separate section of the GCA) in September 1987 to be included in Guam's proposal for a change in political status with the United States. As a publicly endorsed principle--and in the absence of U. S. compliance with international conventions on overseas territories rights to the EEZ--this Article stands as the foundation of Guam's current pursuit of ocean resource issues.

The Speaker of the Guam Legislature, Franklin J. A. Quitugua (Ph.D.), has been particularly active on the issue of Guam's EEZ. He has been especially active in bringing to Washington Guam's concerns about a current proposal on Hard Seabed Minerals (H. R. 1260). I am enclosing his recommendations to Congressman Ben G. Blaz (R-GU) last year and to the House Committee on Merchant

MEMBER

Vice Chairman - Economic Development, Insurance & Banking • Rules • Education • Energy, Utilities & Consumer Protection • Justice, Judiciary & Criminal Justice.



Franklin J. Gutierrez

Vice-Speaker

Chairman, Committee on Tourism, Transportation
and Communications

The Honorable Richard Matsuura
June 8, 1988
Page 2

Marine and Fisheries this year. I believe they will assist you in better understanding Guam's current activities.

As a member of the Western Legislative Conference's Ocean Resource Committee, I would like to thank you for the consideration which you and the other state governments have given Guam. The recognition by the WLC of Guam's "special political relationship(s) with the U. S. including historical and legal rights to ownership and control of the mineral resources..." in our EEZ is a heartening contribution to our political status efforts.

I look forward to continuing Guam's support for the states and their efforts for state management of the U. S. EEZ. We in Guam appreciate the need for the member states of the Union to fully benefit from controlling the U. S. EEZ abutting state littoral, not only for remuneration from exploitation but also in terms of ecological and environmental concerns.

Thank you again for your leadership in promoting the interests of U. S. Pacific states and territories the vital issue of our ocean resources.

Sincerely yours,

FRANKLIN J. GUTIERREZ

Enclosures

cc: Speaker Franklin J. A. Quitugua
Senator John F. Quan
Assemblyman Sam Farr
Executive Director D. Sprague (WLC)
Director, Bureau of Planning

ARTICLE 10. LAND, NATURAL RESOURCES AND UTILITIES

§1001. Authority Over Land and Resources.

(a) The government of the Commonwealth of Guam shall have power of eminent domain over property within the Commonwealth in accord with the Constitution of Guam.

(b) The Commonwealth of Guam shall have jurisdiction over all living and nonliving natural resources of the seabed, subsoil, tidelands, and adjacent territorial waters, as defined by the United States law, of the Island of Guam. The Commonwealth shall exercise rights to determine the conditions, including pollution control, and terms of all scientific research, management, exploration and exploitation of all ocean resources and all sources of energy and prevention of pollution within the 200-mile Exclusive Economic Zone, including pollution originating outside the zone that poses a threat within the zone.

(c) The United States may, upon written notice to the government of the Commonwealth of Guam, acquire for public purposes in accordance with federal laws and procedures, any interest in real property in the Commonwealth only by voluntary means, under such terms and conditions as may be negotiated by the parties. The United States will continue to recognize and respect the scarcity and special importance of land in the Commonwealth of Guam. If the United States must acquire any interest in real property, it will follow the policy of seeking to acquire only the minimum area necessary to accomplish the public purpose for which the real property is required, of seeking only the minimum interest in real property necessary to support such public purpose, and of seeking first to satisfy its requirement by acquiring an interest in public rather than private real property. No interest in real property on Guam will be acquired by the United States unless duly authorized by the Congress of the United States and for which appropriations are available.

(d) The United States agrees not to exercise within the Commonwealth the power of eminent domain except in time of war and then only to the extent necessary and in compliance with applicable United States and Commonwealth of Guam laws, and with full recognition of due process required by the Constitutions of Guam and the United States.

(e) The Commonwealth of Guam is exempt from the federal regulations governing the transfer or sale of excess federal real property. All excess real properties of the United States on the Island of Guam released after establishment of the Commonwealth will be conveyed in fee simple to the government of the Commonwealth of Guam without any condition, limitation or reversion clause in said conveyance.

(f) All lands heretofore transferred to the government of Guam by the United States are released from any and all provisions limiting the use of such land, and are conveyed in fee simple.

Continued on page 62

NINETEENTH GUAM LEGISLATURE
1987 (FIRST) Regular Session

Resolution No. 170 (COR)

Introduced by:

F. J. A. Quitugua
F. J. Gutierrez
A. J. Shelton

D. Parkinson
M. K. Hartsock
J. F. Quan
E. P. Arriola
J. G. Bamba
H. D. Dierking
E. R. Duenas
E. M. Espaldon
A. C. Lamorena III
P. C. Lujan
M. D. A. Manibusan
J. G. Miles
T. S. Nelson
J. M. Rivera
M. C. Ruth
J. T. San Agustin
P. C. Sanchez
F. R. Santos

Relative to requesting the U.S. Congress to grant Guam control over its Exclusive Economic Zone (EEZ) with respect to all natural resources which include its hard Seabed Minerals in the consideration of H.R.1260.

1 BE IT RESOLVED BY THE LEGISLATURE OF THE TERRITORY OF
2 GUAM:

3 WHEREAS, the non-self governing territory of Guam, under the
4 governing authority of the United States, is known to have significant
5 deposits of indigenous hard seabed minerals, primarily the strategic
6 materials manganese and cobalt and may have other natural resources; and

7 WHEREAS, the United States is attempting to reduce its reliance on the
8 import of such strategic materials and import of ferroalloys; and

9 WHEREAS, as an entity whose people have unquestionably been loyal
10 and supportive of U.S. security interests, the territory of Guam and

1 inherent Exclusive Economic Zone have much to offer the United States in
2 its attempt to reduce the import of strategic materials; and

3 WHEREAS, H.R.1260, "A Bill to establish a program for the explorati^{on}
4 and recovery of hard mineral resources on those portions of the sea^{bc}
5 subject to the jurisdiction and control of the United States", would establ^{ish}
6 a revenue sharing plan between all coastal jurisdictions of the U.S.,^{with}
7 payment based on miles of coastline, population and coastal-related mi^{neral}
8 processing of each jurisdiction; and

9 WHEREAS, H.R. 1260 would establish ceilings on royalties to b^e gaine^d
10 from the exploitation of seabed minerals, and establishes exclusi^{ve} righ^t
11 for licenses and permits on a first come first served basis; and

12 WHEREAS, the revenue sharing approach offered by H.R. 1260 would
13 not allow Guam the full benefit of the exploitation and extractioⁿ of all
14 indigenous resources; and

15 WHEREAS, the result of a plebescite held on August 8, 1987 indica^{te}
16 that it is the express desire of the people of Guam that control of the
17 Exclusive Economic Zone must rest with the people of Guam; and

18 WHEREAS, the exclusive license and permit proposal of H.R. 1260
19 would not allow Guam to stimulate competition between various interested
20 parties, thereby prohibiting the maximizing of royalties from the excavation
21 of seabed resources, Guam's only known mineral resource; and

22 WHEREAS, Guam is not incorporated into the union of states of the
23 United States of America, and as such has no representation vis-a-vi^s the
24 exploitation of its inherent indigenous resources by federal law; and

25 WHEREAS, Guam and the United States have much to share
26 respect to mutually reinforcing America's strategic posture in Asia, and
27 Guam's economic and social development: a relationship which would b^e
28 most amiably characterized by an equal partner relationship; and

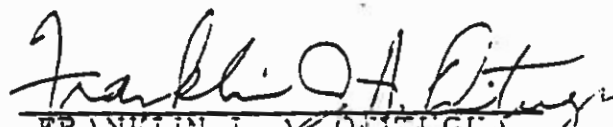
29 WHEREAS, federal law which negates Guam's right to garner th^e
30 maximum benefit of its indigenous resources would undermine a progressiv^e
31 partnership; now, therefore, be it

1 RESOLVED, that the Nineteenth Guam Legislature request the United
2 States Congress to grant Guam control over its Exclusive Economic Zone
3 (EEZ) with respect to seabed minerals in its consideration of H.R. 1260 as a
4 good faith measure of respect for the people of Guam and their desire for
5 an amiable relationship with the United States; and be it further

6 RESOLVED, that the Speaker certify to and the Legislative Secretary
7 attest the adoption hereof and that copies of the same be thereafter
8 transmitted to the Chairman and members of the House Merchant Marine and
9 Fisheries Subcommittee on Oceanography; to the Chairman and members of
10 the House Committee on Merchant Marine and Fisheries; to the Chairman and
11 members of the House Interior and Insular Affairs Subcommittee on Insular
12 and International Affairs; to the Chairman and members of the House
13 Committee on Interior and Insular Affairs; to the Chairman and members of
14 Senate Energy and Natural Resources Subcommittee on Mineral Resources
15 Development and Production; to the Chairman and members of the Senate
16 Committee on Energy and Natural Resources; to the Secretary, U.S.
17 Department of Interior; to the Assistant Secretary of Interior for Territorial
18 and International Affairs; to the Assistant Secretary of Interior for Land
19 and Mineral Management; to Congressman Mike Lowry; to Guam's Delegate to
20 Congress; and to the Governor of Guam.

DULY AND REGULARLY ADOPTED ON THE 11TH DAY OF AUGUST, 1987.


PILAR C. LUJAN
Senator and
Legislative Secretary


FRANKLIN J. A. QUITUGUA
Speaker

CHAPTER V-B

Ocean Shore Territory Beach Areas

- § 13450. Legislative findings
- § 13451. Legislative policy
- § 13452. Construction and interpretation
- § 13453. Definitions
- § 13454. Ownership of Guam ocean shore
- § 13454. Vesting of public rights in same
- § 13455. Acquisition of same
- § 13457. Guam ocean shore not to be alienated
- § 13458. Title and rights of territory unimpaired
- § 13458. Liability of property owners of ocean shore
- § 13460. Landowner declaration of control of same

§ 13450. Legislative findings. The Legislature declares that:

(a) The traditional pattern of land ownership of land abutting the beaches and ocean shores of Guam is that a strip of dry land between the mean high watermark as can be physically established from the latest tide elevation data published by the U.S. Coast and Geodetic Survey, and privately-owned land is owned by the government for general use of the inhabitants of the island, being open and available to all users, both for recreational purposes and as a means of livelihood for thrownet fishermen;

(b) The shore side boundaries of privately-owned real properties which were surveyed before World War II did not extend to the mean high watermark, as can be testified to respecting the privately-owned land along Agaña Bay in the Organized villages of Asan, Piti and Agaña;

(c) Since World War II, an increasing amount of the government-owned land abounding the sea has been alienated and lost to private ownership;

(d) Although fee title to the ocean shore may have vested in private individuals, the Legislature recognizes that over the years the public has made frequent and uninterrupted use of such ocean shore and recognizes, further, that where such use has been legally sufficient to create rights or easements in the public through dedication, prescription, grant, or otherwise, that it is in the public interest to protect and preserve such public rights or easements as a permanent part of Guam's recreational resources;

(e) The indiscriminate building of structures on the ocean shores of Guam creates a menace to the well-being of the people of the territory by increasing the pollution of tidal waters, and such construction, in addition, deprives the people of Guam of their right to untrammelled use of beach areas above the mean high watermark;

(f) Such construction destroys the natural beauty of Guam's ocean shores, one of the territory's greatest natural resources; and

(g) Finally, in spite of the enactment of certain laws and the adoption of numerous resolutions for the protection and preservation of the beach areas of Guam, the Executive Branch of the government, which has the responsibility for enforcing these laws and implementing the resolutions adopted, has failed to adequately preserve and protect that strip of said land above the mean high watermark which belongs to the people of Guam.

§ 13451. Legislative Policy. The Legislature of Guam hereby declares as the public policy of the territory of Guam that it is the public right to have unrestricted access to the ocean shores of Guam for common use by all the people of Guam, and therefore that strip of public land above the high mean watermark must be preserved and protected for all generations to assure free access to the beaches of the territory to the maximum extent, to preserve the natural beauty of Guam's beaches, and to alleviate the health problems caused by construction near tidal areas. It is, therefore, the purpose of this Chapter to forever preserve and maintain the sovereignty of the territory heretofore legally existing over the ocean shore of the territory so that the public may have the free and uninterrupted use thereof; to protect, settle and confirm the public rights to the use of the ocean shore heretofore acquired by public dedication, prescription, or otherwise and to authorize the reacquisition of the ocean shore where a portion thereof has been lost to private ownership and no public rights exist therein as a result of dedication, prescription, or otherwise.

§ 13452. Construction and interpretation. The Legislative findings and policy set forth in §§ 13450 and 13451 shall govern in the interpretation of any provision in this Chapter.

§ 13453. Definitions: 'ocean shore', 'territory recreational area'. As used in this Chapter, unless the context requires otherwise:

(1) 'Ocean shore' means the land between the mean low waterline and a series of lines connecting angle points located at a distance of twenty-five (25) feet land from the two (2) feet contour line as established and described by the U.S. Coast and Geodetic Survey. The angle points shall be so selected as to secure maximum parallelism of the twenty-five (25) feet setbackline with the two (2) feet contour.

(2) 'Territory beach area' means a land or water area, or combination thereof, under the jurisdiction of the Department of Parks and Recreation, used by the public for recreational and fishing purposes.

§ 13454. Ownership of Guam ocean shore. Ownership of the part of the ocean shore of Guam between mean high tide and extreme low tide, excepting such portions as may have been disposed of by the territory prior to January 1, 1972, is vested in the territory beach area.

§ 13455. Vesting of public rights in Guam ocean shore. All public rights or easements in any part of the ocean shore of Guam legally acquired through express dedication, implied dedication, prescription, grant, or otherwise are confirmed and declared vested exclusively in the territory beach area. No land subject to rights vested pursuant to this section shall, after the effective date of this Act, be registered pursuant to the provisions of Article I, Chapter IV, Title IV, Part IV, Division Second of the Civil Code of Guam, unless the registration is in the name of the government of Guam or clearly sets forth the existence of rights in the government of Guam.

§ 13456. Acquisition of Guam ocean shore. The Governor is hereby authorized and directed to acquire ownership of or interests in any part of the ocean shore of Guam where such lands are held in private ownership; provided, however, the Governor shall not acquire ownership of or interests in any such ocean shore if it is unregistered and frequent and uninterrupted use of the ocean shore by the public has been legally sufficient to create rights and easements in the public which are confirmed and vested pursuant to § 13455 of this Chapter; and provided further that any interest in such ocean shore acquired by the Governor which is less than full ownership thereof shall be sufficient to permit the Department of Parks and Recreation to administer the interest acquired as a territory beach area. Such acquisition from private owners shall either be by condemnation, exchange, or negotiated purchase, except that the price for such negotiated purchases shall not exceed the most recent appraised value of such property for real property taxes under Chapter IV, Title XX, Government Code of Guam, and if by exchange with government-owned property, only if the government-owned property to be exchanged has been included in the inventory of government land, or amendments thereto, provided under § 13505.1 of the Government Code of Guam.

§ 13457. Guam ocean shore not to be alienated: judicial confirmation of public rights in ocean shore. No portion of the ocean shore of Guam or any interest therein vested by §§ 13454 and 13455 of this Chapter or hereafter acquired by the territory of Guam or any political subdivision thereof shall be alienated by any agencies, departments, commissions or corporations of the territory except as expressly provided by law; provided, however, the restriction on alienation shall not apply to a judicial sale of such land resulting from a condemnation action brought by the United States of America or to an exchange of said land made pursuant to § 13525(c) of this Code. The Department of Parks and Recreation, when necessary shall undertake appropriate court proceedings to protect, settle and confirm all public rights and easements vested in the territory pursuant to §§ 13454 and 13455 of this Chapter.

§ 13458. Title and rights of territory unimpaired. Nothing contained in this Chapter shall be construed to relinquish, impair or limit the sovereign title or rights of the territory of Guam in its shores as the same may exist before or after the effective date of this Chapter.

§ 13459. Liability of property owners of ocean shore. The owner or person in control of any property subject to a public easement declared a territory beach area by § 13455 of this Chapter or acquired as ocean shore for a territory recreational area pursuant to § 13456 of this Chapter shall not be liable for any injury to another person or damage to property of another resulting from a condition of the property within either area, unless the injury or damage results from a condition that he created and that he knew of or in the exercise of reasonable care, should have known was likely to cause injury to persons or damage to property.

§ 13460. Landowner declaration of continuing control of land along ocean shore: effect: failure to file.

(a) In any court proceedings involving prescriptive rights of the public over unregistered property abutting, adjacent or contiguous to the ocean shore, an instrument executed and filed as provided by Subsection (b) of this section shall be an act and declaration admissible as evidence of the intent of the owner or person in control of property to exercise dominion and control over his property.

(b) The declaration shall describe the property and shall be signed and acknowledged. It shall state that the public is granted permission to use the property, or a specifically described portion of the property, and that the public use may be for certain purposes which shall also be described. The declaration shall be filed in the Department of Parks and Recreation.

(c) Failure of the owner or person in control of property to execute and file the declaration as provided in Subsection (b) of this section shall not imply an intent to relinquish dominion and control over his property. [§§ 13450-13460 added by P.L. 12-19, effective April 24, 1973; Chapter V-B of TITLE XIV renumbered from Chapter V-A and renamed "Ocean Shores: Territory Beach Areas", by P.L. 12-009, effective January 23, 1975.]

TITLE XXVII
Parks and Recreation

CHAPTER I
Parks and Recreation

- § 26000. Definitions
- § 26001. Department: Purpose
- § 26002. Same: Divisions
- § 26003. Director: Duties
- § 26004. Commission: Purposes
- § 26005. Same: Composition: Compensation: Meetings
- § 26006. Same: Duties
- § 26007. Guam Territorial Park System
- § 26008. Same: Description
- § 26009. Same: Classification
- § 26010. Community Parks and Recreation Facilities: Control
- § 26011. Parks Division: Duties
- § 26012. Parks Fund: Establishment: Management
- § 26013. Same: Revenue from Concessions and Uses
- § 26014. Same: Donations: Prizes
- § 26015. Voluntary Improvements
- § 26016. Damage to Property
- § 26017. Recreation Division: Powers and Duties
- § 26018. Community Recreation Programs
- § 26019. Compliance with Federal Programs

§ 26000. Definitions. As used in this Chapter, unless otherwise indicated by the context:

- (a) 'Department' means the Department of Parks and Recreation.
- (b) 'Director' means the Director of the Department of Parks and Recreation.
- (c) 'Commission' means the Parks and Recreation Commission.

§ 26001. Department: Purpose. The Department shall be responsible for the accomplishment of the provisions of this Chapter and Chapter XIII, Title XIV of this Code.

§ 26002. Same: Divisions. The Department is divided into two divisions, to be known as the Parks Division and the Recreation Division.

§ 26003. Director: Duties. The Director shall have the following duties:

- (a) To establish rules and regulations to accomplish the purpose of the Department;
- (b) To administer the Department through such organizational units which he may establish;
- (c) To attend, *ex-officio*, all meetings of the Commission;
- (d) To prescribe the duties of assistants, deputies, agents and other persons employed by the Department;
- (e) To determine which properties constitute the Guam Territorial Park System and to classify such properties, pursuant to § 26007 and § 26009;
- (f) To manage the Parks Fund pursuant to § 26012; and
- (g) To be State Liaison Officer for the Bureau of Outdoor Recreation, State Liaison Officer for Historic Preservation and State Liaison Officer for Forestry and Conservation Programs.

§ 26004. Commission: Purposes. The Commission is hereby established for the purpose of appointing, removing, and advising the Director.

§ 26005. Same: Composition: Compensation: Meetings. The Commission shall consist of seven (7) members, two (2) of whom shall be youth members in their first terms on the Board who are between the ages of eighteen (18) and twenty-two (22), when appointed, who shall be appointed by the Governor with the consent of the Legislature. The Governor shall appoint commission members within 30 days of the effective date of this section. Members shall serve for four (4) years, provided that of the members first appointed, three (3), including one (1) youth member, shall serve for two (2) years. Commission members shall serve without pay but shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties. Commission meetings shall be public.

§ 26006. Same: Duties. The Commission shall have the following duties:

- (a) To appoint, within 15 days of the effective date of this section or within 15 days of the creation of a vacancy in such office, the Director, who shall serve at its pleasure, the affirmative vote of not less than four (4) members being necessary to appoint or remove him;

- (b) To advise the Director on such matters relative to the Department as he shall bring before it, at meetings called by him;
- (c) To meet at the request of any of its members to discuss such matters relative to the Department as it deems appropriate and to make recommendations to the Director thereon; and
- (d) To make a report to the Governor and the Legislature not later than July 1 of each year delineating the activities of the Department during the preceding fiscal year, and outlining the plans of the Department for the coming fiscal year.

§ 26007. **Guam Territorial Park System.** There is hereby created the Guam Territorial Park System. The Director of Parks and Recreation shall inventory all properties belonging to the government of Guam and determine which properties shall be included therein. A detailed list shall be forwarded to the Speaker of the Legislature and the Legislature shall approve or disapprove those properties to be included within the Territorial Park System, within thirty (30) legislative days following receipt of such a list and failure to so act shall be deemed consent by the Legislature.

§ 26008. **Same: Description.** The Territorial Surveyor shall provide the Director with maps of record for all property within the Guam Territorial Park System not later than eighteen (18) months after request by the Director. The Department of Land Management shall similarly provide recorded document numbers for all such property.

§ 26009. **Same: Classification.** The Director shall classify, and may subsequently reclassify, each area of the Guam Territorial Park System according to (a) through (e) below, unless an area is listed in the Guam Register of Historic Places pursuant to § 13985.19(a) of this Code, in which case such area shall be classified according to (e) below:

- (a) 'Natural Preserves', which are to remain unimproved;
- (b) 'Conservation Reserves', which may be improved for the purpose of making them accessible to the public in a manner consistent with the preservation of their natural features;
- (c) 'Territorial Parks' or 'Community Parks', which may be improved for the purpose of providing public recreational facilities in a manner consistent with the preservation of their natural features;
- (d) 'Territorial Recreation Facilities' or 'Community Recreation facilities', which may be improved for the purpose of providing public recreation facilities; and
- (e) 'Historical and Pre-Historic Objects and Sites', which shall be administered according to Chapter XIII, Title XIV of this Code.

§ 26010. **Community Parks and Recreation Facilities: Control.** The control, management, development and maintenance of areas classified as 'Community Parks' and 'Community Recreation Facilities' shall be vested in the Commissioner of the municipality or village in which such area is located.

§ 26011. **Parks Division: Duties.** The Parks Division shall have the following duties:

- (a) To control, manage, develop and maintain all areas of the Guam Territorial Park System except as provided in § 26010; and
- (b) To keep a listing of all areas of the Guam Territorial Park System according to classification, with current, accurate descriptions thereof as determined by the Director in accordance with § 26007.

§ 26012. **Parks Fund: Establishment: Management.** There is hereby established separate and apart from any other government fund a Parks Fund. Monies therein shall be only as appropriated by the Legislature for the development or improvement of the Guam Territorial Park System. The Fund shall be managed by the Director, who may invest any of the monies there in such bank deposits, bonds or securities authorized by Chapter III, Title V of this Code, provided, that such monies shall be invested so as to be available for use within thirty (30) days of the effective date of any legislative appropriation made thereof. The Department certifying officer shall be the certifying officer for the Fund.

§ 26013. **Same: Revenue from Concessions and Uses.** The Director may grant permits to individuals or groups to establish concessions on or otherwise use any part of the Guam Territorial Park System, the fees for which shall be deposited in the Parks Fund; provided, that any person or group granted such a permit must give bond in such amount as, in the opinion of the Director, is necessary to insure that any damage to the System caused by such person or group, including littering, can be rectified.

§ 26014. Same: Donations: Proviso. Money or the proceeds of any property donated, granted or bequeathed generally for the benefit of the Guam Territorial Park System shall be deposited in the Parks Fund; provided, however, that money or property donated, granted or bequeathed for specific purposes, concerning the System or any part thereof shall be held in trust by the Director, and may be used for such purposes only upon authorization by the Legislature.

§ 26015. Voluntary Improvements. The Director may grant permits to any individuals or group to improve, without expense to the government, any part of the Guam Territorial Park System.

§ 26016. Damage to Property. Any person who injures or damages any property within the Guam Territorial Park System, or who removes, destroys, or defaces any tree, shrub, plant, or other attraction of any nature on or in such property is guilty of a misdemeanor, punishable by a fine not to exceed Five Hundred Dollars (\$500.00) per violation.

§ 26017. Recreation Division: Powers and Duties. The Recreation Division shall be responsible for:

(a) Initiating, promoting and supervising recreational programs on areas within the Guam Territorial Park System, except as provided in § 26018, and, with the consent of the Department of Education, initiating, promoting and supervising recreational programs on properties under the control of the Department of Education;

(b) Providing equipment necessary to accomplish (a) above;

(c) Formulating a comprehensive recreation policy and a long range plan relative to the development of new recreation facilities and programs within the territory; such policy and plan to be developed in cooperation with other federal and territorial agencies, interested organizations and citizens, and to be submitted to the Legislature within one (1) year of the effective date of this section; and

(d) Performing such other duties and functions pertaining to the promotion of public recreation as may from time to time be prescribed by the Director.

§ 26018. Community Recreation Programs. The initiation, promotion, and supervision of recreation programs in Community parks and Recreation Facilities, and the supplying of equipment therefor, is the responsibility of the Commissioners of the municipality or village in which such Park or Recreation Facility is located.

§ 26019. Compliance with Federal Programs. The Department may serve as the agency for compliance with the terms of any Federal program, as determined by the Governor, which concerns the implementation or development of plans for the conservation or utilization of water and related land resources. (Chapter I of Title XXVII added in 1952; Repealed and reenacted by P.L. 12-209, effective January 23, 1975.)

CHAPTER XIII
Historical Objects and Sites
Part I

- § 13985. Purpose
- § 13985.1. Definitions
- § 13985.2. Historic preservation and restoration
- § 13985.3. Administration
- § 13985.4. Acquisitions and gifts
- § 13985.5. Condemnation
- § 13985.6. Interest acquired
- § 13985.7. Operation of parties
- § 13985.8. Conveyance of properties
- § 13985.9. Contracts
- § 13985.10. Entry upon private land
- § 13985.11. Excavation and removal of prehistoric and historic remains or objects on private lands
- § 13985.12. Court actions
- § 13985.13. Guam Museum as a depository for certain specimens and objects
- § 13985.14. Designation of historic sites

§ 13985. Purpose. Whereas the Legislature has determined that the historic, archaeological, architectural, and cultural heritage of Guam is among her most important environmental assets and furthermore that the rapid social and economic development of contemporary society threatens to destroy the remaining vestiges of this Spanish-Chamorro heritage, it is declared to be the public policy and in the public interest of this territory to engage in a comprehensive program of historic preservation, undertaken at all levels of the government of this territory, and to promote the use and conservation of such property for education, inspiration, pleasure, and enrichment of the residents of this territory.

§ 13985.1 Definitions. When used in this Chapter 'department' means the 'Department of Parks and Recreation'.

(1) 'Historic preservation' means the research, protection, restoration, and rehabilitation of sites, buildings, structures, and objects significant in the history, architecture, archaeology, or culture of Guam.

(2) 'Historic property' means any building, structure, object, area, or site that is significant in the history, architecture, archaeology, or culture of Guam or the nation. [Amended by P.L. 12-209, effective January 23, 1975.]

§ 13985.2 Historic preservation and restoration. The department in cooperation with the Central Planning Council shall establish a comprehensive program for historic preservation, restoration, and presentation, which shall include but not be limited to the following:

(1) Plans to acquire, restore, and preserve historic areas, buildings, and sites significant to Guam's past;

(2) Establish and maintain the Guam Register of Historic Places;

(3) Establish regulations on the uses of such areas;

(4) Develop a territory wide survey of historic areas, buildings, and sites with a phased preservation and restoration development plan and accompanying budget and land use recommendations;

(5) Provide for matching grants-in-aid to private agencies for projects which will fulfill the purposes of this Chapter;

(6) Seek assistance for the territorial historic preservation and restoration program by applying for technical assistance and funds from the Federal government and private agencies and foundations for the purposes of this Chapter;

(7) Employ sufficient professional and technical staff for the purposes of this Chapter;

(8) Advise and cooperate with other public and private agencies engaged in similar work;

(9) Submit an annual report and budget to the Governor and the Legislature by February 1 of each year, with recommendations for programs of historic preservation and restoration.

§ 13985.3. Administration. All territorial projects and programs relating to historic preservation and restoration shall come under the authority of the Department.

§ 13985.4. Acquisitions and gifts. For the purpose of protecting or preserving any historic property, the Department may acquire, preserve, restore, hold, maintain, operate, or dispose of such properties, together with such adjacent or associated lands as may be necessary for their protection, preservation, maintenance, or operation. Such property may be real or personal in nature, and in the case of real property, the acquisition may include the fee or any lesser interest therein. Property may be acquired by gift, grant, bequest, devise, lease, purchase, condemnation, or otherwise. Property may be acquired by the Department, using such funds as may be appropriated for such purposes.

The Department may receive gifts and grants from public and private sources to be used for the purposes of this Chapter.

§ 13985.5. Condemnation. In the event that a property which has been found by the Department to be important for public ownership or assistance is in danger of being sold, used, or neglected to such an extent that its historical or cultural importance will be destroyed or seriously impaired, or that the property is otherwise in danger of destruction or serious impairment, the Department in cooperation with the Department of Land Management may acquire the historical property or any interest therein by condemnation under the laws of this territory. All condemnation proceedings shall be instituted and prosecuted in the name of the territory.

§ 13985.6. Interest acquired. In the case of real property, the interest acquired shall be limited to that estate, agency, interest, or term deemed by the Department to be reasonably necessary for the continued protection or preservation of the property. The Department may acquire the fee simple title, but where it finds that a lesser interest, including any development right, negative or affirmative easement in gross, or appurtenant covenant, lease, or other contractual right of or to any real property, to be the most practical and economical method of protecting and preserving historical property, the lesser interest may be acquired.

§ 13985.7. Operation of properties. Any historic property acquired, whether in fee or otherwise, may be used, maintained, improved, restored, or operated by the Department for any public purpose within its powers and not inconsistent with the purpose of the continued preservation of the property. Such historic property shall not be subject to condemnation unless such method of acquisition is first approved by the Governor.

§ 13985.8. Conveyance of properties. In appropriate cases, the Department of Land Management with the concurrence of the Department may acquire or dispose of the fee or lesser interest to any historic property, including adjacent and associated lands, for the specific purpose of conveying or leasing the property back to its original owner or to any such other person, firm, association, corporation, or other organization under such covenants, deed restrictions, lease, or other contractual arrangements as will limit the future use of the property in such a way as to insure its preservation. In all cases where property is conveyed, it shall be subjected by covenant or otherwise to such rights of access, public visitation, and other conditions or restrictions of operation, maintenance, restoration, and repair as the Department may prescribe, or to such conditions as may be agreed upon between the Department and the grantee or lessee to accomplish the purposes of this section.

§ 13985.9. Contracts. The Department may enter into and carry out contracts with the Federal government or any agency thereof under which the Federal government or agency grants financial or other assistance to the Department to further the purposes of this Chapter. The Department may agree to and comply with any reasonable conditions not inconsistent with territorial law which are imposed on such grants. Such grant funds or other assistance may be accepted from the Federal government or agency and expended whether or not pursuant to a contract. The Department may further enter into and carry out contracts with any private party to further the purpose of this Chapter.

§ 13985.10. Entry upon private land. The Department is authorized to enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof; provided that no member, employee or agent of the Department may enter any private building or structure without the express consent of the owner or occupant thereof.

§ 13985.11. Excavation and removal of prehistoric and historic remains or objects on private lands.

(a) Before any prehistoric remains or objects are excavated or removed from private lands by the Department, the Department or its designated representatives may, for the purpose of examining the remains or objects, enter upon the land and make investigations. The entry shall not constitute a cause of action in favor of the owner of the land, except for damages resulting from willful acts or negligence on the part of the Department or its designated representatives.

(b) Removal of any prehistoric or historic remains or objects from private lands shall be made in the presence of the owner as witness. Whenever any prehistoric or historic remains or objects are excavated or removed from private lands by the Department or its designated representatives, the owner of such lands shall be compensated for the loss of such remains or objects at a sum mutually agreed upon by the Department and the owner, or if no agreement is reached, the amount of compensation shall be determined by trial in the Superior Court and measured by the fair market value of such remains, assessed as of the date of its removal by the Department or its designated representatives, and established by the testimony of experts qualified in the appraisal of such remains or objects.

§ 13985.12. Court actions. Where any violation of this Chapter occurs, or is likely to occur, which will result in unauthorized or improper demolition, alteration, or transfer of historic property, the Attorney General, any agency of the territory, any person, partnership, corporation, association, organization, or other legal entity may maintain an action in the Superior Court for declaratory and equitable relief against the territory, any person, partnership, corporation, association, organization, or other legal entity for the protection of a historic property and the public trust therein. Any party who prevails in an action brought under the provisions of this section shall be awarded his costs, including reasonable attorney fees.

§ 13985.13. Guam Museum as a depository for certain specimens and objects. Any specimen and object of natural history and of botanical, ethnological, or archaeological value or interest, and any book, treatise, or pamphlet relating to natural history, botany, ethnology, or archaeology now in the possession of the University of Guam, or any territorial department, bureau, or board, or which may hereafter come into the possession of the university or the department, bureau, or board, if and when the same is no longer needed for scientific investigation, for study, or for any other purpose by the university or the department, bureau, or board may, at the request of the museum be transferred and delivered by and with the consent of such department, bureau, or board having possession of to the museum or exchanged with the museum, and whereupon, in any such case, the title thereto shall become vested in the museum, provided, that the specimens and objects so transferred to the museum are made available at all reasonable times by the museum for study and examination by the officials of the university or such department, bureau, or board.

§ 13985.14. Designation of historic sites. The Department shall designate particular places as places of historic interest, and take such action, including the erection of signs or markers, as may be appropriate for public recognition and appreciation of such sites.

PART II

Conservation of Archaeological Resources

- § 13985.15. Declaration of legislative intent
- § 13985.16. Definitions
- § 13985.17. Archaeological resources on government land
- § 13985.18. Archaeological investigation, recording, and salvage; appropriations
- § 13985.19. Prehistoric and historic sites and remains
- § 13985.20. Permits to examine ruins, excavate, and gather objects on public lands
- § 13985.21. Monuments; reservation of land; relinquishment of private claims
- § 13985.22. Excavation and removal of prehistoric and historic remains on private lands
- § 13985.23. Cooperation of other governmental units
- § 13985.24. Field investigations on private lands
- § 13985.25. Penalties
- § 13985.26. Prehistoric or historic objects; public property
- § 13985.27. Reproductions of prehistoric or historic objects; representation as originals; penalties
- § 13985.28. Removal and trespass

§ 13985.15. Declaration of legislative intent. The Legislature declares that the public has an interest in the preservation and protection of the territory's archaeological resources; that the public has a right to the knowledge to be derived and gained from a scientific study of these resources, and that therefore it is the purpose of this part to provide that activities for the preservation, excavation, study, and exhibition of the territory's archaeological resources be undertaken in a coordinated and organized manner for the general welfare of the public as a whole.

§ 13985.16. Definitions. As used in this part:

(1) "Field investigation" means the study of the traces of human culture on any land or water site by means of surveying, mapping, sampling, excavating or removing surface or subsurface objects, or going on a site with that intent.

(2) "Site" means any aboriginal mound, house site, earthwork, village location, burial ground, historic or prehistoric quarry, cave, or other location which is or may be the source of important archaeological data.

(3) "Specimens" mean all relics, artifacts, remains, objects, or any other evidence of a historical, prehistoric, archaeological, or anthropological nature, which may be found on or below the surface of the earth, and which have scientific or historic value as objects of antiquity, as aboriginal relics or as archaeological samples.

§ 13985.17. Archaeological resources on government land. The territory reserves to itself the exclusive right and privilege of said investigation on sites owned or controlled by the territory, its agencies, departments, or institutions in order to protect and preserve archaeological and scientific information and objects. All new information and objects deriving from government lands shall remain the property of the territory and be utilized for scientific or public educational purposes.

§ 13985.18. Archaeological investigation, recording, and salvage; appropriations. Whenever any public construction or improvement of any nature whatsoever is undertaken by any government agency on lands which are controlled or owned by the territory and which are sites of historic or prehistoric interest and value, or locations of prehistoric or historic remains, one per cent of the appropriation for such public construction or improvement, or as much thereof as may be necessary, shall be expended by the department for the archaeological investigation, recording, and salvage of such sites or remains when it is deemed necessary by the department.

§ 13985.19. Prehistoric and historic sites and remains.

(a) The Department shall locate, identify, and preserve in the Guam Register of Historic Places information regarding prehistoric and historic sites, locations, and remains. The Department of Land Management shall clearly designate on its records and cadastral maps of the territory, the location of all prehistoric and historic sites, or locations and remains.

(b) Before any public construction or improvement of any nature whatsoever is undertaken by the territory, or any governmental agency or officer, the head of such agency or such officer shall first examine the Department's records and cadastral map of the area to be affected by such public construction or improvement to determine whether any site listed upon the Guam Register of Historic Places is present. If so designated, the proposed public construction or improvement shall not be commenced, or, in the event it has already begun, continued, until the head of such agency or such other officer shall have advised the Department of the proposed public construction or improvement and shall have secured the concurrence of the Department or, as hereafter provided, shall have secured the written approval of the Governor.

If the concurrence of the Department is not obtained within ninety days after the filing of a request therefor with the Department or after the filing of a notice of objections by the Department with the agency or officer seeking to proceed with any project, such agency or officer may apply to the Governor for permission to proceed notwithstanding the nonconcurrence of the Department and the Governor may take such action as he deems best in overruling or sustaining the Department.

(c) Before any construction, alteration, or improvement of any nature whatsoever is undertaken or commenced on a designated private prehistoric or historic site listed on the Guam Register of Historic Places by any person, he shall give to the Department three (3) months notice of intention to construct, alter, or improve the site.

After the expiration of the three-month notification period, the Department shall either commence condemnation proceedings for the purchase of the site or remains, permit the owner to proceed with his construction, alteration, or improvement, or undertake or permit the recording and salvaging of any historical information deemed necessary to preserve Spanish-Chamorro history, by any qualified agency for this purpose.

Any person who violates the provisions of the first paragraph of this subsection shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned not more than ninety (90) days or both.

(d) Inclusion of any historic site structure, building or object on the Guam Register of Historic Places shall be by the majority affirmative vote of the Guam Review Board for Historic Preservation.

§ 13985.20. Permits to examine ruins, excavate, and gather objects on public lands. Permits for the examination of ruins, excavation of archaeological sites, and the gathering of objects of antiquity upon lands owned or controlled by the territory may be granted by the Department to persons or institutions which they deem properly qualified to conduct such examination, excavation, or gathering, subject to such rules and regulations as the Department may prescribe; provided, that the examinations, excavations, and gatherings are undertaken for the benefit of public museums, universities, colleges, or other recognized public scientific or educational institutions, with a view to increasing the knowledge of such objects and that the gatherings may be made for permanent preservation in public museums if so deemed by the Department.

§ 13985.21. Monuments: reservation of land; relinquishing of private claims. Upon the recommendation of the Department, the Governor may declare by executive order historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the territory to be territorial monuments and may reserve as a part thereof

parcels of land the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected. When such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the territory, and the Governor is authorized to accept the relinquishment of such tracts on behalf of the territory.

§ 13985.22. Excavation and removal of prehistoric and historic remains on private lands. Before any prehistoric or historic remains are excavated or removed from private lands by the Department, the department or its designated investigators shall first secure the written approval of the owner of such lands. Whenever the value of the private prehistoric or historic site is diminished by the excavation or removal of prehistoric or historic remains by the Department, the owner of the site, shall be compensated for the loss, at a monetary sum mutually agreed upon by the Department and the owner or at a monetary sum set by the court.

§ 13985.23. Cooperation of other governmental units. All agencies, departments, institutions, and commissions, shall cooperate fully with the Department in the preservation, protection, excavation, and evaluation of specimens and sites and to that end:

(1) When any agency finds or is made aware by an appropriate historical or archaeological authority that its operation in connection with any territory, territory assisted, territory licensed, or contracted project, activity, or program adversely affects or may adversely affect scientific, historical, or archaeological data, such agency shall notify the Department and shall provide the Department with appropriate information concerning the project, program, or activity. The provisions of this section shall be made known to contractors by the territorial agencies doing the contracting.

(2) The Department, upon notification or determination that scientific, historical, or archaeological data including relics and specimens, is or may be adversely affected, shall, after reasonable notice to the responsible agency, conduct or cause to be conducted a survey and other investigations to recover and preserve or otherwise protect such data, including analysis and publication, which in its opinion should be recovered in the public interest.

(3) The Department shall initiate actions within sixty (60) days of notification under Paragraph (1) and within such time as agreed upon in other cases. The responsible agency is authorized and directed to expend agency funds for the purpose of recovering such data, including analysis and publications, and such costs shall be included as part of the contractor's costs if the adverse affect is caused by work being done under contract to a territorial agency.

§ 13985.24. Field investigations on privately owned lands. It is the declared intention of the Legislature that field investigations on privately owned lands should be discouraged except in accordance with both the provisions and spirit of this Chapter; and persons having knowledge of the location of archaeological sites are encouraged to communicate such information to the Department.

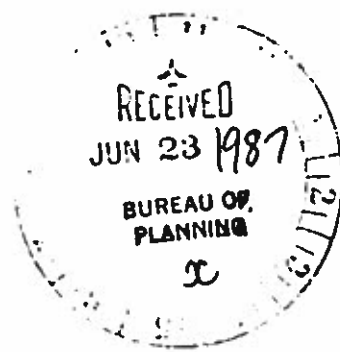
§ 13985.25. Penalties. It shall be unlawful for any person to take, appropriate, excavate, injure, or destroy any prehistoric or historic ruin or monument or object of antiquity, situated on lands owned or controlled by the territory without the permission of the Department. Any person who violates this section shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned not more than ninety (90) days, or both. Any prehistorical and historical objects and remains which have been taken without a permit shall be seized, deposited, and preserved in public museums by the Department.

§ 13985.26. Prehistoric or historic objects; public property. The Department shall, subject to the provisions of this Chapter, determine the disposition of such prehistoric or historic remains or objects wherever located within the territory which are the property of the territory. Any person who disturbs remains or objects of prehistoric or historic significance or removes such remains or objects from its site with the intent to convert the object to his own use or for the use of others shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned not more than ninety (90) days, or both.

When a private landowner or lessee in the territory discovers remains or objects which may be of historic significance on his property, he shall report the location of such remains or objects, without disturbing the remains or objects, to the Department. Such private landowner shall be compensated, in accordance with § 13985.11 for any prehistoric or historic remains or objects excavated or removed from his lands by the Department.

§ 13985.37. Reproduction of prehistorical or historical objects; representation as originals; penalties. It shall be unlawful to reproduce or forge a prehistorical or historical object with the intent to represent it as an original. Any person who violates this section shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned not more than ninety (90) days, or both.

§ 13985.22. Removal and trespass. It shall be deemed an act of trespass for any person, natural or corporate, to remove artifacts and antiquities of the kind described herein from the private land of any owner thereof without his permission being first obtained, and any person so doing shall be guilty of a misdemeanor punishable by a fine not exceeding Five Hundred Dollars (\$500) or by imprisonment for a period not to exceed six (6) months, or both.



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA, GUAM 96910
U. S. A.

EXECUTIVE ORDER NO. 87-19

Amendment To
EXECUTIVE ORDER NO. 85-6

RELATIVE TO THE LEASING OF GOVERNMENT-OWNED
LAND FOR COMMERCIAL PURPOSES

WHEREAS, Section 3 of Public Law 15-6 authorized the Government of Guam to lease government-owned land for commercial purposes; and

WHEREAS, the Government of Guam desires to assist in the economic development of the territory; and

WHEREAS, the Government of Guam owns real properties which may have potential for commercial use and are not needed by the government for present or future use; and

WHEREAS, the Department of Land Management has cognizance of government real property;

NOW THEREFORE, I, JOSEPH F. ADA, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, do hereby order as follows:

1. Commercial Leases.

The Department of Land Management, subject to approval by the Governor, is authorized to declare available for lease, under the provisions of this Executive Order, government real property designated for development in the Guam Public Land Use Plan and which is not required for public use or reserved or needed for other use by any agency or department of the government, including any future use. All affected agencies and departments of the government shall have the opportunity to comment as to any intended use or potential future use of any government property proposed for commercial lease.

All submerged lands, under the jurisdiction of the Government of Guam and determined suitable for commercial use, are declared available for lease on a case by case basis, under the provisions of this Executive Order.



2. Property Available for Lease.

The Director shall annually prepare and submit to the Governor an inventory of government real property available for lease. The inventory shall include only those properties designated for development in the Guam Public Land Use Plan. Upon approval of the Governor, such inventory shall be published on July 1 of each year, and at such other times as may be appropriate. Any deletion or addition shall be published in like manner. No application to lease government real property shall be accepted except as to real property included in such inventory.

Submerged lands shall be exempt from the publication requirement. All submerged lands under the jurisdiction of the Government of Guam determined suitable for commercial use shall be deemed included in the inventory list. Determination of suitability for commercial use of submerged lands is subject to prior approval of all affected Territorial agencies, boards and commissions.

3. Definitions.

As used in this Executive Order, the term "commercial use" shall include the use by individuals, partnerships and corporations qualified to do business in Guam for the purpose of operating commercial or industrial business enterprises. The term does not include use of the leased property for the purpose of securing a sublease, assignment or other transfer of rights under the lease.

4. Eligibility.

Any person who is a legal resident of the Territory of Guam and of legal age and licensed to do business in the Territory of Guam and authorized to do business in the Territory of Guam and authorized by its articles of incorporation to engage in a commercial enterprise, or any partnership, limited or general, licensed to do business in the Territory of Guam, shall, in accordance with the provisions of this Executive Order, be eligible to lease Government of Guam land for commercial purposes. No such person, partnership or corporation shall be eligible to lease more than one tract, lot or parcel. Submerged lands leased adjacent to leased government land leased by the same parties shall be considered as part of the non-submerged tract, lot or parcel for the purposes of this Executive Order.



5. Priorities.

The Director, in considering and acting upon applications for the lease of government real property for commercial purposes, shall give priority to such business enterprises as will, if established, contribute to the economic development of the territory or provide desirable goods or services not then available here and to such business enterprises already established as will, by expansion and improvement of their facilities, contribute to the economic development of Guam or provide desirable goods or services not then available here or, if available, not adequate to the needs of the territory.

If, under the application procedures, two or more applications for the same properties are determined by the Director to be of equal value when considering the above priorities, the Director may enter into negotiations with the applicants to obtain an agreement and lease that best meets the needs of the territory. Unsuccessful applicants under this section may obtain review of the Director's decision if such objection is filed with the Governor of Guam within fourteen (14) days of receipt of a notice of award of the lease to another applicant.

6. Same: Application: Restrictions.

No person, firm or corporation shall be allowed any priority who shall have previously, on the same facts establishing the priority, claimed and been allowed any priority under this Executive Order, or any equivalent priority or preference authorized under any other provision of law, whether or not the transaction in which the priority was claimed and allowed was ever completed, provided an opportunity to complete the transaction was offered.

7. Application for Leases.

Application for leases of government land for commercial use shall be made to the Department of Land Management. The application shall be in such form and contain such data as the Director of Land Management, with the approval of the Governor and the Attorney General, shall prescribe. Applications for such leases shall be accompanied by a detailed plan for the commercial use of the property by



the Lessee, which may require submission and prior approval of detailed drawings and financial information to be provided by the applicant.

8. Same: Zoning.

All government property leased for commercial purposes must comply with the applicable zoning law before a lease may be entered into. If the property is not zoned for the use intended by an applicant, and the applicant in all other respects is eligible to lease the property, the Department of Land Management may apply to the Territorial Planning Commission for the applicable zone change or variance for the property. Applications to lease government land not properly zoned for the intended commercial use shall not be approved by the Department of Land Management. Submerged lands leased for commercial purposes are exempt from compliance with this paragraph, but subject to determination of suitability for commercial use as required by paragraph 2 of this Executive Order.

9. Approval of Applications.

The Department of Land Management shall verify the eligibility of the applicant and all essential facts set forth by the applicant. The Department shall approve or disapprove the application in accordance with such reasonable standards as the Director, with the approval of the Governor and the Attorney General, may prescribe. The applicant for a lease of submerged lands must comply with all Territorial permit and agency requirements prior to approval of the lease application.

10. Same.

Upon approval of the lease application by the Department of Land Management, the lease must be approved by the Attorney General and be submitted to the Governor for his signature. The lease shall be executed by the Department of Land Management upon the approval of the Governor. The lease shall not take effect until after approval of the Legislature, pursuant to P.L. 18-32:14.

11. Term.

The term of the lease shall not exceed fifty (50) years.



12. Rent.

The amount of rent due shall be determined by the fair market rental value of the property at the time of the initial execution of the lease. The rental amount shall be redetermined at least every ten years to conform with the current fair market rental value of the property leased or at least every five years at a fixed amount stated in the contract not to exceed 10% of the immediate prior lease amount. The parties shall also have the option to lease the property with the first year's rent being forgiven. If this option is exercised by the parties, the lease document shall state the specific reasons for the forgiving of the first year's rental amount. The amount of rent due for submerged lands shall not exceed the amount of rent that would be due for adjacent non-submerged lands if they were to be leased for commercial purposes, on an area for area basis. For fish weir operators, rent shall ^{be} commensurate with existing fees as established by the Department of Agriculture.

13. Cancellation.

The Government of Guam shall reserve the right to cancel at any time any lease executed hereunder if the lessee is not using the land for the specific purpose for which it was leased, unless good cause for such failure can be shown, except that no lease can be cancelled without a hearing pursuant to the provisions of the Administrative Adjudication Law.

If the Lessee does not use the land for the specific purpose for which it was leased, within two years of the initial effective date of the lease, the lease shall be automatically cancelled on the second anniversary of the lease.

14. Taxes.

Holders of a lease under this Executive Order shall be responsible for all property taxes. Both the leasehold interest, as well as any improvements shall be subject to real estate taxes.

15. Transfer or Encumbrances.

No rights derived from any lease executed under Section 3 of P.L. 15-6 and this Executive Order shall be assigned, sold, subleased, encumbered or hypothecated without the approval of the Governor after review and approval by the Attorney General and shall not take effect until approval of the Legislature. No person



leasing under the provisions of this Executive Order shall sublease or otherwise transfer any interest in the leased property for more than the current lease amount.

16. Recording.

Every original lease under the provisions of this Executive Order shall be recorded with the Department of Land Management. A copy of every lease shall be filed with the Department of Administration. The property description shall contain a reference to a map recorded with the Department of Land Management which specifically identifies the property.

17. Annual Financial Statement.

Every lessee under a lease executed under Section 3 of P.L. 15-6 and this Executive Order shall annually submit to the Department of Land Management on the anniversary of each lease, a financial statement and report setting forth in detail the use, improvements and income derived from the leased property. The Director shall, with the approval of the Governor, prescribe the form of such financial statement and the date required.

18. Change in Use.

A lessee who desires to materially change the approved use of the property must submit an application to the Department detailing the specific reasons for the intended change. The application shall be accompanied by a detailed plan for the new intended commercial use of the property by the lessee, which may require submission of detailed drawings and financial information to be provided by the lessee. The Department shall approve or disapprove the application in accordance with such reasonable standards as the Director, with the approval of the Governor and the Attorney General, may prescribe.

19. Form of Lease.

All leases under the provision of this Executive Order must be in a form approved by the Attorney General.

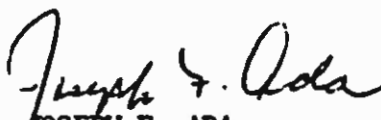
20. The Director of Land Management shall annually, no later than January 30 of each year, submit to the Governor a list of current commercial leases, including, but not limited to: the Lessee, current rent, expiration date, property



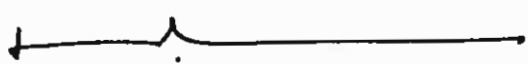
description, financial status as last reported and current use. Such list shall be available at the Department for public inspection during normal business hours.

This Order shall be effective upon approval of the Governor.

Signed and promulgated at Agana, Guam the 18th day of June,
1987.


JOSEPH F. ADA
Governor of Guam

COUNTERSIGNED:


FRANK F. BLAS
Lieutenant Governor of Guam



OFFICE OF THE SPEAKER

Nineteenth Guam Legislature

POST OFFICE BOX CB-1
TERRITORY OF GUAM
U.S.A. 96910

FRANKLIN J. ARCEO QUITUGUA
Speaker

Tel: 472-3401

Honorable Ben G. Blaz
Member, U.S. Congress
1232 Longworth Office Bldg.,
Washington D.C. 20515

July 1, 1987

Dear Congressman Blaz:

Thank you for the copy of H.R. 1260 as introduced by Representative Mike Lowery. Certainly the strategic materials which lie on the ocean floor are needed to assure U.S. domestic supplies and stockpiles for defense and high technology industries. While the cost of extracting strategic materials such as manganese and cobalt from their existing seabed sites has been prohibitive, the growing U.S. need for domestic supplies and new technology has opened up the possibilities of exploitation within the next decade or so. As I am sure you are aware, these are very exciting developments for Guam -- it certainly debunks the myth that we have no natural resources!

The escalating development of technology -- which both demands the use of strategic materials in Guam's EEZ, and is making the extraction of the same more possible -- is ironic at this juncture in Guam's development. Here we are, the last frontier of development, and yet we hold the very key components which the world's most sophisticated technology demands. It is most fitting that Guam's emergence into the modern world should be paralleled by international demands for valuable resources which lie within our islands' "boundaries". Needless to say we would be remiss if we did not strive to gain the maximum possible benefit from this, our only known, precious material resource.

I have been interested in this subject for some time, and am certainly pleased that you too recognize that we should merit separate treatment from the several states and/or the littoral jurisdictions of the contiguous United States. In responding to your request for input I would like to preface my remarks on the subject of the H.R. 1260 by noting our current status as an unincorporated territory, and our future aspirations for Commonwealth. While Article 10, Section 1001 (a) and (b) of the proposed Commonwealth Act would give Guam complete authority over seabed materials in Guam's 200 mile EEZ, we are not yet a Commonwealth, and would require protection of these resources for local revenue enhancement.

through U.S. public laws. As we move forward with the Commonwealth Act we should keep in mind the changing nature of control over these resources. In the interim however, I do have several recommendations with respect to H.R. 1260 which would more appropriately address protection of Guam's indigenous resources on the seabed than does the current draft of the bill.

In attempting to pragmatically balance the federal interest in attaining strategic materials, and Guam's interests in gaining maximum benefit from such deposits in its EEZ I offer the following comments and recommendations.

With respect to deposits of strategic materials in the seabed surrounding Guam I think it must be understood by the powers that be in Washington, that this is our only material natural resource which has great value (aside of course from our land and its strategic value). Therefore it should not be surprising if we would: (1) more jealously guard its revenue potential; and (2) desire some control over the way in which licenses and permits are granted.

I am not certain how these desires can be accomplished vis-a-vis the larger federal interest, but because seabed strategic material deposits are so lucrative, I would like to see the granting of licenses and permits for recovery in Guam's EEZ to be based on competitive bidding -- together with the criterion of Sections 303-307 as a benchmark -- which awards permits to that entity which is willing to pay the highest percentage in royalties to the government. Because the bill defines licenses and permits as exclusive, bidding seems to be a more appropriate way to assure greater benefits in royalties. It would also mitigate "insider information" which a "first come first serve" approach may promote.

On the issue of revenues to be garnered by the government of Guam as a result of royalties gained from the recovery of hard mineral resources, I am of the opinion that Section 314 is inadequate with respect to what the people of Guam would expect from the exploitation of these indigenous resources. Given the fact that H.R. 1260 would authorize \$22 million for resource evaluation, mapping, assessing the environmental impact, and for education over the next five (5) years, it would probably be futile to protest the ten percent (10%) federal "cut" from the royalties. However, in the case of Guam, we should be given additional consideration vis-a-vis the fact that these are probably our only mineral resources.

Certainly the criterion established for revenue sharing in Section 314(3)(A) (B), and (C) may not reflect the contribution of Guam's EEZ to

the supplies and stockpiles of strategic materials gained by the recovery of such. We have no assurances that coastal-related processing of hard mineral resources would occur in or around Guam; our shoreline mileage is minuscule compared to the states on the west coast and even Hawaii; and our population is a drop in the bucket compared to the other coastal states and jurisdictions.

Although the revenue sharing option of Section 314 could mean that Guam receives some revenues even before the extraction of seabed minerals from Guam's EEZ, I tend to take a more colloquial approach with respect to Guam's oversight of its resources. Studies have indicated that we have significant amounts of seabed minerals in our EEZ, and I for one am not satisfied that the revenue sharing proposal between all U.S. coastal areas would yield us benefits equal to our resources. The presence of the renowned deep water submersible Alvin II on Guam at this very time, I believe, indicates the potential riches which lie on our seabed. Moreover, these strategic materials have no substitutes. So even if Guam's EEZ is not the first one to be tapped it would not diminish the value of our strategic materials -- infact it may well enhance its value. Additionally, involving ourselves in a revenue sharing plan with coastal states now may complicate Guam's complete control over such resources as is envisaged in our future relationship with the United States through the Commonwealth Act.

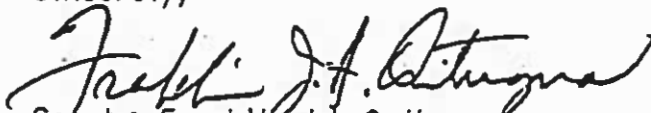
Guam and the United States have so much to share. We have already given so much of our strategically valuable property for the U.S. military mission in the Pacific basin. In the case of seabed minerals the United States will need the valuable resources which lie on the floor of the ocean in the adjacent waters around Guam. However, Guam has an interest in protecting its indigenous resources to gain the maximum benefits which their extraction will engender. As a United States Congressman you can do much to promote goodwill between Guam and the United States by recognizing the value of our only known mineral resource, and assuring a measure of local control over the same which reflects its importance to the future of Guam.

I have enclosed some ideas on possible amendments to H.R. 1260 which may assist you in your efforts to provide for more local control -- through federal law -- over seabed minerals which lie within Guam's EEZ. In the absence of a legislative resolution on this particular matter, please accept my comments as those of an individual senator. However, the preponderance of past legislative resolutions on the issue of Guam's EEZ, the draft language of the Guam Commonwealth Act on this subject, and my

weighed when discussing this issue on Guam's behalf.

Thanks once again for keeping us informed of the developments in Washington which have such a great impact on us here, 9,000 miles away.

Sincerely,

A handwritten signature in dark ink, appearing to read "Franklin J.A. Quitugua". The signature is fluid and cursive, with the first name "Franklin" being the most prominent.

Senator Franklin J.A. Quitugua
Speaker, 19th Guam Legislature

Enclosure

cc Governor of Guam
Chairman, Federal, Foreign and Legal Affairs Committee

PROPOSAL TO AMEND H.R.1260
ALLOWING GUAM TO MAXIMIZE THE
BENEFITS OF SEABED MINING IN ITS EEZ

Background

Guam is known to have significant amounts of seabed mineral deposits within its EEZ. These resources are indigenous resources -- possibly Guam's only mineral resource.

As a non-self-governing territory under the governing authority of the United States, the government of Guam has little control over these resources. However, exploitation of such resources by the United States, without a certain degree of local control, may give rise to law suits against the United States. (e.g. Narau's lawsuits against the governments of the U.K. and Australia for exploitation of phosphates during the period when Narau was a non-self-governing territory) An absence of local control over the indigenous resources of the seabed could also exasperate local attitudes vis-a-vis the United States, particularly if extracted amounts are known to be of great value.

Guam's Commonwealth Act (Article 10, Section 1001 (a) and (b)) would provide for Guam's complete control over all ocean resources on the seabed within Guam's 200 mile EEZ. This article is relatively noncontroversial and will most likely pass with a large majority voting in its favor in the August 8, 1987 plebiscite.

Proposal

H.R.1260 is seen as an interim step in local control of the seabed mineral resources. In light of Guam's quest for Commonwealth, and the

forementioned political considerations with respect to local attitudes and indigenous resources, the following amendments are offered to H.R. 1260.

1. Section 102.

A new subsection (12) should be added to note the scant resources of the insular island jurisdictions of the United States, that greater control over extraction of hard mineral resources is appropriate, and that royalty payments for the same would mitigate local attitudes which may see federal control as 'exploitation' of indigenous resources.

2.) Section 103.

(i) Guam (and the other noncontiguous territories or Commonwealths, if they so wish) should be removed from the definition of 'coastal state' in subsection (4), and 'state' in subsection (17).

(ii) A new subsection should be added to define 'noncontiguous territories and commonwealths' which would also define the 'Governor' of a noncontiguous territory the same as that of a state.

3. Section 202.

(i) A new subsection (g) is added to read as follows:

'(g) the state-federal consultation process set out in this section shall also apply to the consultation process between the federal government and noncontiguous territories and commonwealths.'

4.) Section 302.

(i) Subsection (a) should be amended, to add the following language on line 24 as follows:

"except as provided for in 102(c)"

(ii) A new subsection (c) should be added to read:

(c) Licences and Permits for Noncontiguous Jurisdictions.

(1) The governments of the noncontiguous territories and commonwealths shall enact laws to establish for license and permit rights in their Exclusive Economic Zones, which may include in addition to the criterion for application as established in this act, a competitive bidding process with percentage of royalty payments as the competitive factor.

(2) The Governor of the noncontiguous territory or commonwealth shall transmit to the Administrator and Secretary copies of local laws enacted for the issuance of licences and permits within ninety days (90) of the enactment thereof.

(4) Section 309

(i) Subsection (a)(2) is amended, to add new language to line 22 as follows:

"except as provided for in subsection (c) of this section"

(ii) A new subsection (c) is added to Section 309 to read:

(c) Noncontiguous Jurisdictions - The terms, conditions, and restrictions of licenses and permits for the exploration and recovery of hard mineral resources within the EEZ of noncontiguous territories and commonwealths may be established by the laws of the noncontiguous territory or commonwealth in relation to the royalty amounts which the licensee or permit holder must remit as payment to the United States for the recovery of hard mineral resources. The Governor shall transmit copies of laws enacted for this purpose to the Administrator and Secretary within ninety (90) days of the enactment thereof.

(5) Section 314

(i) The existing section should be under a subsection (a)

(ii) A new subsection (b) is added to read:

"(b) Of the total amount of royalties with respect to any fiscal year paid to the United States from licensees or permittees recovering hard mineral resources from the EEZ of the noncontiguous territory or commonwealth under the schedule enacted, and regulations established pursuant to Section 309(c)-

(1) 10 percent shall be deposited into the general fund of the Treasury;

(2) 90 percent shall be deposited into the general fund of the noncontiguous territory or commonwealth from which the hard mineral resources were recovered, provided that that jurisdiction adopts a plan for mitigation of the effects of exploration and commercial recovery activities, and that the plan has met with the approval of the Administrator."



OFFICE OF THE SPEAKER

Nineteenth Guam Legislature

POST OFFICE BOX CB-1

TERRITORY OF GUAM

U.S.A. 96910

FRANKLIN J. ARCEO QUITUGUA

Speaker

HAND DELIVER

Tel: 472-3401/3

February 17, 1987

The Honorable Walter B. Jones
Chairman, House Merchant Marine
and Fisheries Committee
241 Canon House Office Building,
Washington D.C. 20515

Dear Congressman Jones:

Hafa Adai from Guam.

It has come to my attention that the Committee on Merchant Marine and Fisheries will be marking up H.R. 1260 on February 24. I and my colleagues in Guam, (and indeed the entire population of Guam) have expressed our support for Guam's control over it's Exclusive Economic Zone (EEZ) and the resources therein.

Certainly the strategic materials which lie on the ocean floor are needed to assure U.S. domestic supplies and stockpiles for defense and high technology industries. While the cost of extracting strategic materials such as manganese and cobalt from their existing seabed sites has been prohibitive, the growing U.S. need for domestic supplies and new technology has opened up the possibilities of exploitation within the next decade or so. As I am sure you are aware, these are very exciting developments for Guam -- it certainly debunks the myth that we have no natural resources! Needless to say we would be remiss if we did not gain the maximum possible benefit from this, our only known, precious material resource.

Given Guam's status as a non-self-governing territory, I believe that we merit separate treatment from the several states and/or the littoral jurisdictions of the contiguous United States. Resolution 170 (enclosed) adopted by the Nineteenth Guam Legislature clearly establishes Guam's position on H.R. 1260. Moreover Article 10, Section 1001 (a) and (b) of the proposed Guam Commonwealth Act would give Guam complete authority over seabed materials in Guam's 200 mile EEZ. While Guam is not yet a Commonwealth, we seek protection of these seabed resources now (since Congress is addressing this issue now) so as not to overly complicate our quest for Commonwealth.

In attempting to pragmatically balance the federal interest in attaining strategic materials, and Guam's interests in gaining maximum benefit from such deposits in its EEZ I offer the following comments and recommendations.

With respect to deposits of strategic materials in the seabed surrounding Guam I urge you to consider that this is our only material natural resource which has great value (aside of course from our land and its strategic value). Therefore it should not be surprising that we seek to jealously guard its: revenue potential and, our control over the way in which licenses and permits are granted.

I am not certain how these desires can be accomplished vis-a-vis the larger federal

page 2 of 2

interest, but because seabed strategic material deposits are so lucrative, I would like to see the granting of licenses and permits for recovery in Guam's EEZ to be based on competitive bidding -- together with the criterion of Sections 303-307 as a benchmark -- which awards permits to the entity which is willing to pay the highest percentage in royalties to the government. Because the bill defines licenses and permits as exclusive, bidding seems to be a more appropriate way to assure greater benefits in royalties. It would also mitigate "insider information" which a "first come first serve" approach may promote.

Certainly, the criterion established for revenue sharing in Section 314(3)(A), (B), and (C) will not reflect the contribution of Guam's EEZ to the supplies and stockpiles of strategic materials gained by the recovery of such. We have no assurances that coastal-related processing of hard mineral resources would occur in or around Guam; our shoreline mileage is minuscule compared to the states on the west coast and even Hawaii; and our population is a drop in the bucket compared to the other coastal states and jurisdictions.

Although the revenue sharing option of Section 314 could mean that Guam receives some revenues even before the extraction of seabed minerals from Guam's EEZ, I tend to take a more colloquial approach with respect to Guam's oversight of its resources. Studies have indicated that we have significant amounts of seabed minerals in our EEZ, and I for one am not satisfied that the revenue sharing proposal among all U.S. coastal areas would yield us benefits equal to our resources. Additionally, involving ourselves in a revenue sharing plan with coastal states now, may complicate Guam's complete control over such resources as is envisaged in our future relationship with the United States through the Commonwealth Act.

Guam and the United States have so much to share. We have already given up one-third of our strategically valuable property for the U.S. military mission in the Pacific basin. In the case of seabed minerals, the United States will need the valuable resources which lie on the floor of the ocean in the adjacent waters around Guam. However, Guam has an interest in protecting its indigenous resources to gain the maximum benefits which their extraction will engender. As Chairman of the House Merchant Marine and Fisheries Committee, you can do much to promote goodwill between Guam and the United States by recognizing the value of Guam's only known mineral resource, and assuring a measure of local control over the same which reflects its importance to the future of Guam.

Thank you for your consideration of Guam's aspirations to be a more equal partner in the important Pacific mission of the United States.

Sincerely,



Franklin J.A. Quitugua

Enclosure

cc Members, House Merchant Marine and Fisheries Committee
Governor of Guam
Chairman, Federal, Foreign and Legal Affairs Committee
Senator Daniel Inouye

THE ROLE OF CZM IN EEZ MANAGEMENT

MICHAEL L. HAM, ADMINISTRATOR, GUAM COASTAL MANAGEMENT
PROGRAM

My position on this panel reminds me of a question asked by George Gobel, several years ago, when he found himself sitting on a panel between Frank Sinatra and Dean Martin. He asked, "Did you ever get the feeling that the world was a tuxedo and you were a pair of brown shoes?"

I have been asked to present a state program view on the role of state and territory coastal management programs in the EEZ exploitation process. In addressing this subject, I must forewarn you that straight-line logic is not my approach in life. I am about to take you on a journey comprised almost entirely of detours, but I promise to arrive at the issue before I am finished.

The whole question of a federal-state relationship in EEZ management presupposes several assumptions which I am not willing to accept without question, or comment. The first assumption is that the federal government should be involved in the process. (and I'll bet you all thought Don Quixote was dead!).

The, at least appearance of, confusion over jurisdiction at the federal level is one cause for my concern. NOAA was the first to propose a framework for deep seabed mineral mining of nodules. That has now been followed by proposed rules on prelease prospecting by Department of Interior, which assert that agency's authority. The grapevine has been indicating that EPA is skulking in the wings, looking for their opening into the process. To make matters even more confusing, if NOAA is "spun-out" of Commerce, as has been proposed in Congress, the Department of Commerce will almost certainly try to exert their own jurisdictional rights in the issue.

The allowance of this power struggle has to bring into question the commitment of the Administration, and suggests a lack of executive direction. While a confusion of statutory authority, such as OCSLA vs. Deep Seabed Hard Minerals Resources Act, can be offered up as an excuse for the on-going display of power grabbing, we have seen no movement toward resolving the conflict. As a result, clear direction to the potential exploiters and to the affected states has been impossible. Quite frankly, I believe the states deserve, and should expect, a more decisive and mature federal establishment than we have seen to this point.

Additionally, individual federal agency actions to this date, as well as Administration pronouncements, point to a lack of understanding of potential impacts on state coastal resources. Attempts to define the state role by the federal agencies have resulted in only token participation allowed for. While federal power consolidation at the expense of the states is not new to this century, the cavalier approach to the environment that we've witnessed in the past six years is new, and is not welcomed. That attitude, as embodied in rulemaking attempts as regards to the EEZ, can only serve to exacerbate the federal-state rift that has developed over the resource and environment issues.

Reality dictates that we live by the "golden rule", (he who has the gold makes the rules), and the federal government has the gold. In other words, like it or not, the federal government will be involved in management of the EEZ. In that regard, the following is offered.

The congress should, with all possible speed, hear and act upon the "Lowry Bill" on seabed mineral mining. While some minor modifications could be made to that bill, overall it intelligently addresses the jurisdictional

problem, provides for adequate state participation, and guides the federal agencies in rulemaking and procedure.

A major, positive aspect of the Lowry Bill for the states, and that aspect which I'm sure this Administration finds most objectionable, is the revenue sharing portion. As originally conceived in the bill introduced in the 99th Congress, a 50-50 state-federal partnership is created in terms of revenue. Because the federal authorities would have to fund ocean enforcement and the coastal states would have to fund mitigation of on-shore, near-shore impacts, this split seems fair. Given mitigation costs vs. state revenue sharing percentages under the National Forest Revenue Act of 1908, the Mineral Leasing Act of 1920 and the Taylor Grazing Act of 1934, the formula under the Lowry Bill seems no more than adequate.

The second assumption made is that the territories will participate in EEZ exploitation and management in the same way as the states.

The Department of Interiors' proposed rulemaking quite clearly excludes the Territories from the process, for two

very good reasons. The first has only to do with Interior, and that lies in the definition of Outer Continental Shelf as found in Section 1301 (a) (2) of the OCSLA. On that point alone, it would appear the Department of Interior has no intention of including the Territories, should that department be successful in the power wars.

The second reason for exclusion would apply to any federal agency's jurisdiction. In short; President Reagan made it clear in his EEZ proclamation, that the United States was basing their claim on international law, (and therefore, international norms). International norms suggest that if territories are not fully integrated (and represented) in the national government, their natural resources should be managed for the benefit of the local population.

While the territories will want to explore this interpretation further, it presents, at least on surface, some intriguing possibilities for territorial alternatives in EEZ management.

The logical assumption would be that, if the states and

territories are included in a meaningful management and benefit cooperative arrangement with the federal government, the territories would not pursue an independent authority. If, however, we see a duplication of the off-shore oil and gas program, any and all options will be very carefully weighed.

Accepting the assumptions then, and finally arriving at the question at hand, defining the role of coastal zone management in EEZ management becomes very easy.

The EEZ and its usage will, or could include; fisheries management of both migratory and non-migratory species; hard mineral mining; suspended mineral extraction; oil and gas extraction; esoteric and as yet undefined exploitation of plankton, kelp and hydrogen; possible exploitation of thermal venting; and, a whole world of possibilities we can't even dream of now. Not only will every one of these uses result in impacts on the ocean ecosystem, both off-shore and near-shore, but will result in on-shore, support facility construction impacts as well.

The expertise needed to assess exploitation proposals reaches well beyond any one source. The biota, geology, economics, water quality and social impacts of projects must be assessed and inter-actively formatted, in order to present a true picture of proposal desirability, and those assessments must be addressed from both a local and national perspective. Quite frankly, they should also address the international perspective.

We could, as is governments' wont, re-invent the wheel and create new agencies to deal with EEZ management, but why? The coastal management programs were established to be catholic in their review abilities, and have proven themselves over more than a decade. The federal consistency process, aside from this administrations revulsion to state review, has worked and worked well. The coastal management programs have proven they can coordinate review of proposals for a wide variety of activities, and that they are capable of intelligently weighing environmental, economic and national interest issues. There are no other state entities, with federal ties, that are handling development issues of such scope.

It is clear, to this speaker, that the coastal management programs are the state agency best suited to be that link between state and federal interests in the EEZ. Further, because the federal side of EEZ management in an ocean issue, NOAA is the most appropriate federal agency for EEZ responsibility. The fact that NOAA and the state CZM programs are already connected only serves to strengthen that view.

The process itself should work quite easily. Concurrent, duplicate applications could be submitted to state coastal management programs and the federal agency of authority. State agencies would review and comment, as with any federal consistency review, and would, at the same time, issue local permits. As with federal consistency, state review time should not create any imposition to desirable, quality development proposals.

In conclusion, the system for state-federal coordination and cooperation is in place. The state CZM programs have proven their ability and there can be no doubt that EEZ impacts will be felt in the coastal zones. To create a new system for federal-state review is unnecessary and would only impede development of the EEZ.

EXCLUSIVE ECONOMIC ZONE (EEZ)

On March 10, 1983, President Reagan proclaimed, for the U.S., a 200 NM EEZ, but the Federal Government has not yet designated agencies of jurisdiction or established management procedures.

The EEZ represents a major economic resource for the States, as well as the Federal Government. Since the 1983 proclamation, it has become apparent that the Federal Government is unprepared for implementation. Agency infighting between Department of Interior, Department of Commerce (NOAA) and Environmental Protection Agency has shown that the Federal Government has yet to define its policy, its role or its commitment to the EEZ. Because of the confused state of the EEZ at the Federal level, and the apparent readiness of the States and Territories to exert a managerial role, it should be the policy of the Coastal States that State level policy and management of the EEZ be implemented immediately.

Background and Support for State Level Implementation:

1. Through the proclamation of 1983, President Reagan "recognized" the intent of the Law of the Sea Convention, (LOS).
2. The LOS recognizes the divisibility of the EEZ (between International or federal interests and local (state) interests.
3. Other Federal policies recognize State interests in co-managing ocean resources:
 - a) Deepwater Port Act (33 USC 1501 et seq) recognizes State interests to 15 NM.

- b) Submerged Lands Act of 1953 recognizes State ownership and jurisdiction over resources in Territorial (State) Waters.
 - c) Coastal Zone Management Act of 1972 establishes Fed-State responsibility in area of National interest.
 - d) OTEC Research, Development and Demonstration Act (42 USC 9001 et seq) requires Federal-State interface on permitting.
4. Federal Law does not regulate exploration or exploitation of minerals within "EEZ".
 5. Current Continental Shelf Regime does not regulate EEZ (DOI believes it does, other Federal agencies do not).
 6. "Hard Mineral Recovery Act" introduced in 99th Congress (Lowry Bill) equates deep sea level exploration and recovery with significant impacts on Coastal States, (Section 102 (a)(6)).
 7. Coastal States Organization has completed EEZ policy statement, claiming State interest in managing EEZ.
 8. EEZ Policy Study for Hawaii (prepared by Admiral Bruce Harlow (U.S. Navy, Ret.) and Captain Richard Grunawalt (U.S. Navy, Ret.) recommend that Hawaii claim jurisdiction over EEZ.
 9. Public Law 15-114 (March 24, 1980) proclaims 200 geographic mile boundary for Guam.

RECOMMENDATION: It is recommended that the Coastal States and Territories develop local policy and law re: permitting, monitoring and enforcement for Fisheries and Mineral exploration and Recovery

in EEZ, defining State and Federal Roles.

Further, through organizations such as PBDC, CSO and (possibly) National Governors Association, lobby for Federal recognition of State Role. This would include support for reintroduction and passage of a modified Lowry Bill.

Finally, the Coastal States must be prepared to challenge an anticipated Federal response in court.

THE 200-NAUTICAL MILE EXCLUSIVE ECONOMIC ZONE & GUAM

DRAFT
FOR PRELIMINARY
REVIEW ONLY
BUREAU OF PLANNING

Background

1. March 24, 1980: Guam declared 200 Mile seaward boundary for Guam, with attendant rights, through P.L. 15-114.
2. March 10, 1983: Presidential Proclamation 5030 claimed Jurisdiction, for the United States, over the 200 Mile seaward zone contiguous to all U.S. States and Territories.
3. Subsequent federal Executive Branch pronouncements, U.S. Department and Interior proposed rulemaking and U.S. Department of Commerce (NOAA) proposed rulemaking accrue all revenue benefits, permitting responsibilities and development review for activities within the EEZ to the United States Government.
4. Proposed legislation within the House of Representatives, (Lowry Deep-Sea Mining Bill) would provide for a 50-50 (State-federal) revenue sharing for EEZ activities and provide for state project review.
5. President Reagan's proclamation asserts itself to be in conformance with international law (read: International norm), and such norms suggest that Territories not fully integrated and represented in the national government should retain all benefits from their resources. With this interpretation, the Territories appear to have legal grounds for asserting local management jurisdiction over the EEZ.

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Suggested Actions & Policies

DRAFT!
FOR PRELIMINARY
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BUREAU OF PLANNING

1. Guam adopt legislation asserting Territorial authority in the EEZ and create and adopt an Ocean Management Plan, as per example: Oregon State Senate Bill 630 (attached).
2. Guam create and adopt a Lagoon Management Plan, covering the water and submerged land areas from mean high tide line, seaward to the 10 fathom contour.
3. That Guam establish rules and regulations for use of deep ocean within Guam's EEZ, including permitting authority and procedure, monitoring and enforcement procedure, revenue procedures.
4. Guam declare, as policy, that the Territory finds that the living and non-living, resources within Guam's 200-nautical mile EEZ are natural and cultural resources of the Territory, and that all uses of such resource should conform to the laws of Guam.
5. That Guam testify favorably to the U.S. House of Representative's Bill on deep seabed mineral mining, with modifications, (to more clearly define coastal state rights in permitting, monitoring and enforcement).

**EXCLUSIVE ECONOMIC ZONE (EEZ)
POLICY AND PRACTICALITY
GUAM'S PERSPECTIVE**

JUNE 7, 1988

The EEZ is a proclamation of jurisdictional rights over natural resources within a 200nm zone around land possessions of the various nations. For U.S. purposes, Guam's EEZ does not extend the full 200 nm, because of its proximity to CNMI, and FSM, but does encompass approximately 26,000 square miles of ocean, and includes all natural resources (excluding water and migratory species) from an undefined depth below the ocean floor, and extending throughout the entire water column to the ocean surface.

The legislative history of rights within the EEZ is fraught with overlapping jurisdictional questions (Fed. agency vs. Fed. agency, and Fed. government vs. local government, and Fed. government vs. Territorial status government), questions of applicability of international agreements, and lack of clarity in regards to Congressional intent. While federal legislation dealing with activities and specific rights beyond the territorial sea have existed prior to the formal U.S. declaration of the U.S. EEZ, their application within the territories is, at best, questionable. Some of these laws do, however, infer local interests beyond the 3nm territorial sea.

1. The Deepwater Port Act (33USC 1501 et seq) recognizes state (read: local) interests to a distance of 15 nm.

2. The Submerged Lands Act of 1953 recognizes state ownership and jurisdiction over resources in state (territorial) waters. (see later discussion on jurisdictional problems of Guam's territorial sea).

3. The Coastal Zone Management Act of 1972 (P.L. 92-583 as amended), establishes Federal-State co-responsibility in areas of National interest.

4. The Outer Continental Shelf Lands Act's applicability for the states may be questionable, but should not be interpreted to apply to the territories, as "membership in the union" is included in the Act's definition of continental shelf.

5. The OTEC Research, Development and Demonstration act (42 USC 9001 et seq) requires Federal-State coordination on permitting.

These statutes either assert state responsibility, or through their language, allow for territorial omission from the law.

One other point, re: jurisdictional problems in Guam's state (territorial) waters, must be made. Due to the process of federal land retention on Guam, as allowed for in the Organic Act, and later implemented by the Department of Interior under Presidential directive, the federal government retained jurisdiction over territorial waters along 34.5 miles of Guam coast, or 119 square miles (statute) of the territorial sea. Extending that federal jurisdiction through the EEZ and the result would be a federal claim of 7935 square miles (statute). This jurisdictional claim by the federal government, (while applicable in law for waters around American Samoa and U.S. Virgin islands), is not being applied to any other U.S. state or territory! This is a problem which must be dealt with at the Congressional level. The Federal claim is approximately 30% of what should be the total area under jurisdiction of GovGuam.

In-so-far as jurisdiction in the EEZ, the following is a synopsis of prior actions and recommended future actions:

1. P.L. 15-114 (March 24, 1960) declared a 200 statute mile economic zone for Guam, with attendant rights. This law should be amended to read 200 nm, which would increase the total area by 3480 square miles.

2. Presidential Proclamation 5030 (March 10, 1983) claimed a 200nm EEZ for the U.S. around the U.S. borders and territories.

3. Based on the wording of the Presidential Proclamation and a study of international norms regarding territorial rights, DOI (Mineral Mining Service) concluded that resources of the U.S. EEZ (around the territories), should be managed for the benefit of the territories (as opposed to the federal government).

4. H.R. 1260 (Lowry Bill, or Marine Mineral Mining Bill), as passed the House Merchant Marine and Fisheries Committee. This Bill would establish mining procedures within the EEZ, and allows for state participation and revenue sharing. Guam testified favorably on the bill, but requested that Guam be deleted from the definition of "coastal state" and be included in

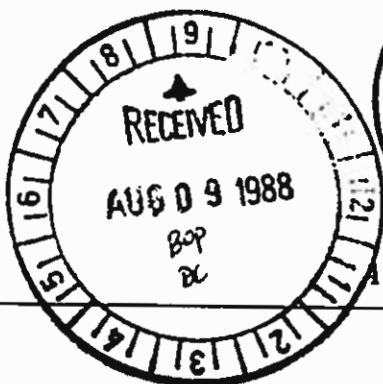
the definition of "freely associated state". That change was not made. This bill is now before the House Insular Affairs Committee, and the same testimony should be presented. No companion bill has yet been presented in the Senate.

5. The Guam Commonwealth Act calls for local jurisdictional rights in the 200 nm EEZ.

6. A preliminary study by USGS indicates a potential in Guam's EEZ for substantial deposits of iron-manganese crusts and polymetallic sulfides, cobalt, nickel, platinum, zinc, lead, silver, copper, gold and molybdenum, as well as a potential for oil and gas reserves. Guam's rights should be asserted and determined prior to confirmation of these resources.

7. The states of Oregon, Washington and California have created legislation to produce and implement an ocean management plan. Guam should follow suit, if for no other reason than to demonstrate the seriousness of our intentions and capabilities in managing the EEZ.

8. USGS has proposed a mapping and analysis of Micronesia EEZ's (including Guam's). The local cost to Guam may reach \$2 million for that project, but the information gathered would be invaluable in managing the resources. Note of caution...some guarantees should be given by DOD that the information would not be immediately classified (as has been done with previous mapping within the U.S. EEZ) and withheld from the local government.



AGANA, GUAM 96910

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August 8, 1988

Memorandum

To: Director, Bureau of Planning

From: Director of Agriculture

Subject: Exclusive Economic Zone Agency Responsibility

This is in response to your memo of July 26, 1988 in which you indicated a concern for the Department of Agriculture's non-involvement statement made in regard to the Exclusive Economic Zone (EEZ).

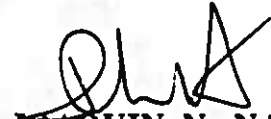
While we agree that the Department of Agriculture does have certain responsibilities for fisheries that could be construed as extending into the Exclusive Economic Zone (EEZ), as a practical matter the Department has been precluded from fully exercising these responsibilities by circumstance. Section 12303, Government Code of Guam, vests "The control and regulation of fish and game in and about Guam and the administration of this Article [Article I, Chapter IV, GCG]..." in the Department of Agriculture. Despite this legal mandate for the Department of Agriculture to be responsible for the control and regulation of all fishery resources in and about Guam, the Governor of Guam has designated the Department of Commerce to be the "lead agency" in fishery matters (See attached memorandum).

We also have certain responsibilities under the Endangered Species Act of Guam (PL 15-36; Sections 12325 - 12325.10, GCG) that could extend into the EEZ (specifically with respect to sea turtles). A copy of Guam's laws regarding fisheries and endangered species is attached for your information.

Apart from this, our Division of Aquatic and Wildlife Resources has a major constraint placed upon its ability to fully carry out its legally mandated responsibilities for the "control and regulation" of all fishery resources because of the nature of its funding. Currently, the fisheries programs of the Division are 100% federally funded through the Federal Aid in Sport Fish Restoration Act, which specifically limits funded activities to the "...restoration, conservation, management, and enhancement of sport fish, and the provision of public use and benefits from these resources. Sport fish are limited to aquatic, gill-breathing, vertebrate animals, bearing paired fins, and having material value for sport or recreation." (50 CFR 80.5). Consequently, absent any other funding, either federal or local, the Division is legally unable to become actively involved in the management or regulation of commercial fishery resources. Because the EEZ primarily involves commercial fishery

resources, the Department of Agriculture does not currently have any involvement in EEZ matters.

Should the Department of Agriculture's legal responsibilities under Section 12301, GCG, be recognized as including commercial fishery resources and adequate local funding be provided to enable the Division of Aquatic and Wildlife Resources to become actively involved in commercial fishery management, then the Department of Agriculture could then become active participants in matters related to commercial fisheries and the EEZ. Without such support the degree of involvement this Department has in such matters must necessarily be limited.



JOAQUIN N. NAPUTI
Acting

Attachments



BUREAU OF PLANNING
GOVERNMENT OF GUAM
AG ANA GUAM 96910

JUL 08 1987

Memorandum

To: Director, Department of Agriculture
From: Director, Bureau of Planning
Subject: Lead Fisheries and Aquaculture Agency

In response to your memorandum of July 1, 1987, I am reiterating that the Governor has decided that Department of Commerce is the lead agency for fisheries and aquaculture with the Bureau of Planning as the liaison between Department of Commerce and the Governor's Office. However, this decision does not prevent the Department of Agriculture from being involved in an advisory/review capacity in fisheries and aquaculture matters. This decision also does not mean that the Department of Agriculture would be precluded from implementing fishery or aquaculture programs mandated to it by law.

While I appreciate the difficulties involved in implementing legally mandated programs without being designated the lead agency, I believe that the Governor's decision calls for greater cooperation and coordination in the planning and implementation of fishery and aquaculture programs. On the other hand, if you feel that the difficulties are insurmountable, I would entertain proposals for the transfer of those fishery and aquaculture programs currently at Department of Agriculture.

Thank you for your inquiry.

15/
PETER P. LEON GUERRERO
Acting

cc: Department of Commerce

CHAPTER IV

Game and Fish, Forestry and Conservation

ARTICLE I

Game and Fish

- § 12300. Definitions.
- § 12301. Authority of Department.
- § 12302. Chief Conservation Officer: deputies.
- § 12303. Taking fish with explosions.
- § 12304. Use of explosives unlawful.
- § 12305. Taking fish by means of poisonous or intoxicating substance unlawful.
- § 12306. Use of poison or intoxicating substance unlawful.
- § 12306.1 Use of electrical devices.
- § 12307. Possession of dynamite, explosive, poisonous or intoxicating substance.
- § 12307.1 Possession of electric shocking devices.
- § 12308. Fishing equipment and methods.
- § 12308.1 Fishing with gill nets (tekin).
- § 12308.2 Willful destruction of coral.
- § 12309. Illegally taken fish.
- § 12310. Fish weirs.
- § 12311. Taking of fish.
- § 12311.1 Recovery of fish and game.
- § 12312. Unprotected wild animals.
- § 12313. Unprotected wild birds.
- § 12314. Protection of wild birds.
- § 12315. Protection of wild animals.
- § 12316. License to take certain wild animals.
- § 12317. Special license.
- § 12318. Importation: harboring.
- § 12319. (Repealed)
- § 12320. Use of artificial light prohibited.
- § 12321. Regulations.
- § 12322. Confiscation.
- § 12323. Penalty.
- § 12324. Wildlife Conservation Fund.

Section 12300. Definitions. As used in this Article:

(a) 'Angling' means fishing in a manner which lures the fish to swallow a hook in an attempt to pierce the body of the fish internally;

(b) 'Firearm' means any weapon, the operating force of which is an explosion. This definition includes pistols, revolvers, rifles, shotguns, machine guns, automatic rifles, noxious gas projectors, mortars, bombs, cannons and submachine guns. The specific mention of certain weapons does not exclude from the definition other weapons operated by explosives;

(c) 'Fish' means any aquatic animal life, including but not limited to oysters, clams, mollusks, mussels, crustaceans and other shellfish;

(d) 'Fish Weir' means an apparatus for catching fish, consisting of a pocket or trap, with one or more wings or leaders or both, and remaining in a fixed location. Any reference to 'fish weir' in this Article includes any part or component thereof, including any pole, support, net, brush, wire, mesh, rope or other item or material. For purposes of this Article, there are two (2) types of fish weirs:

(1) 'main weir' means the central pocket or trap of any fish weir and its leader (main entrance) and wings (side entrance); and

(2) 'auxiliary weir' means any supplementary trap or pocket and its leader or wings which are attached to the leader or wings of a main weir;

(e) 'Game' means all native or introduced species of wild birds or wild animals;

(f) 'Snagging' means fishing in a manner with jerking motions with hooks and line in an attempt to pierce the body of the fish externally;

(g) 'Take' means hunt, pursue, catch, capture, angle, seize, kill, trap, wound, shoot in any way or by any agency or device, every attempt to do such acts or to assist any other person in the doing of or the attempt

(h) 'Traditional Fishing Methods' means subsistence-level cultural fishing practices in which the catch is not marketed, but rather is shared within the family or community for purposes of home consumption. Traditional methods most commonly include, but are not necessary limited to,

- (1) 'cast net' (talaya,
- (2) 'drag net/seine' (chinchulon mahala),
- (3) 'surround net' (chinchulon umesugon),
- (4) 'trap net' (chinchulon managam),
- (5) 'butterfly net' (chinchulon ababang),

and

- (6) 'lalago'

(i) 'Vehicle' includes every description of carriage or other contrivance used, or capable of being used, as means of transportation on, below, or above the land, including boat trailers, but does not include aircraft;

(j) 'Vessel' includes every description of water-craft or other contrivance used, or capable of being used, as means of transportation in water; and

(k) 'Waters of Guam' means that area of shore and waters seaward of the mean high water line (mark). (Amended by P.L. 16-39, effective September 11, 1981.)

Section 12301. Authority of Department. The control and regulation of fish and game in and about Guam and the administration of this Article shall be vested in the Department.

Section 12302. Chief Conservation Officer: deputies. The provisions of this Article shall be enforced by the Director who shall be ex officio the Chief Conservation Officer, and suitable employees of the Department who he may appoint as Deputy Conservation Officers, as well as by peace officers defined in Section 851, Chapter V, Title II, Part II of the Penal Code of Guam. The acting hereunder shall have the powers of peace officers to carry arms and to make arrests for violations.

Section 12303. Taking fish with explosives. It shall be unlawful to take any fish using dynamite or any other explosive.

Section 12304. Use of explosives unlawful. It shall be unlawful for any person to throw, drop or explode any dynamite or other explosive, or cause to be thrown, dropped or exploded any dynamite or other explosive in any waters of the Territory of Guam whether done for the purpose of taking fish or not, except as may be authorized pursuant to regulations.

Section 12305. Taking fish by means of poisonous or intoxicating substance unlawful. It shall be unlawful for any persons to take any fish by means of any substance which has a poisonous or intoxicating effect upon fish.

Section 12306. Use of poison or intoxicating substance unlawful. It shall be unlawful for any person to deposit, throw, drop or discharge, or cause to be deposited, thrown, dropped or discharged in any manner in the waters of Guam any substance which has a poisonous or intoxicating effect upon fish whether done for the purpose of taking fish or not.

Section 12306.1. Use of electrical devices. It shall be unlawful for any person to take fish by means of any device which operates by shocking with a electric current (either AC or DC). (Added by P.L. 16-39, effective September 11, 1981.)

Section 12307. Possession of dynamite, explosive, poisonous or intoxicating substance. It shall be unlawful for any fisherman, or person in the habit of fishing, or person who is in the water or close by the shore where fish can be taken, to possess, in the absence of satisfactory cause for possession of the same, any dynamite or other explosive, or any substance which has a poisonous or intoxicating effect upon fish.

Section 12307.1. Possession of electric shocking devices. It shall be unlawful for any fisherman, person in the habit of fishing, or person who is in the water or close by the shore where fish can be taken, to possess, in the absence of satisfactory cause, any device capable of emitting an

electric discharge into the water. (Added by P.L. 16-39, effective September 11, 1981.)

Section 12308. Fishing equipment and methods. The use of nets, flails, hooks and other devices and methods which may result in the taking of, or damage to, fish in violation of regulations governing fishing shall be unlawful. (Amended by P.L. 16-39, effective September 11, 1981.)

Section 12308.1. Fishing with fill nets (tekin).

(a) It shall be unlawful to abandon or discard a gill net in the waters of Guam.

(b) It shall be unlawful to leave a gill net, whether attended or unattended, in the waters of Guam for more than six (6) consecutive hours. For the purposes of this Section, the six (6) hour consecutive period continues to run if the gill net is not moved at least fifty (50) yards within a six (6) hour period from the time of its initial placement in the waters of Guam.

(c) It shall be unlawful to use a gill net with a length greater than one thousand (1,000) feet. (Added by P.L. 16-39, effective September 11, 1981.)

Section 12308.2. Willful destruction of coral. It shall be unlawful to willfully destroy coral growth for purposes of flushing fish from their habitat or for clearing an area for net fishing. (Added by P.L. 16-39, effective September 11, 1981.)

Section 12309. Illegally taken fish. It shall be unlawful for any person knowingly to take, buy, sell, transport or possess any fish, or any part thereof, contrary to the provision of this Article or to regulations made under Section 12321.

Section 12310. Fish Weirs.

(a) It shall be unlawful for any person to place or maintain a fish weir in the waters of Guam unless he holds a valid license from the Director of Agriculture, hereinafter referred to as Director. The Director may, at his discretion, issue such a license imposing such conditions on the face thereof as are necessary so as not to unjustly restrict the fishing of others nor result in the violation of provisions of this Article and supporting regulations.

(b) Limitations and Prohibitions

(1) Main Weir: No wing shall exceed three hundred (300) feet in length. No leader shall exceed five hundred (500) feet in length.

(2) Auxiliary Weir: No wing shall exceed one hundred-fifty (150) feet in length. No leader shall exceed two hundred fifty (250) feet in length.

(3) The mesh of the netting used in the construction of fish weirs, main or auxiliary, shall be such as to permit the passage of objects or organisms measuring less than one (1) inch in diameter or one (1) inch square.

(4) No permit shall be issued authorizing more than one (1) main weir and two (2) auxiliary weirs for the area covered by such permit.

(5) The area covered by a single permit shall be contiguous, but this shall not be construed to authorize installations of fish weirs anywhere within such area if otherwise prohibited.

(6) No person shall place, install, construct, maintain or operate any part or component of a fish weir, except as authorized by a permit issued under this Article.

(c) Location of Fish Weirs. No fish weir or any part of thereof shall be located within one hundred (100) feet of the mean high water mark, one hundred-fifty (150) feet of any boat channel, six hundred (600) feet of a sewage outlet opening, or two hundred (200) feet from the fish weir of another permittee, or outside the area covered by the permit. No permit will be issued for the location of a fish weir at any other site determined by the Director to be detrimental to the best interest of the public or responsible fisheries management.

(d) Application for Permit. Any applicant for a permit to place and operate one or more fish weirs in the waters of Guam shall submit complete and signed applications for the placement and operation thereof to the Director in a form prescribed by him. The application shall show (1) the name and address of the applicant; (2) the area

requested to be covered by the permit; and (3) the number of fish weirs (pocket or traps) applied for.

(e) Investigation. Upon receipt of a complete and signed application, the Director shall promptly cause an investigation of all aspects of the application to be made.

(f) Issuance of Permit. When all the requirements set forth in this Section have been met, and the application has been approved by the Director, he shall issue a permit in a form prescribed by him. The original copy shall be given to the permittee and a duplicate copy shall be retained in the Department of Agriculture.

A fee of Twenty-Five Dollars (\$25) shall be paid for each fish weir pocket or trap before the permit is issued. A permit shall be valid for one (1) year from the date of issuance unless otherwise revoked. No permit may be transferred except upon approval by the Director. Upon approval or transfer of a permit, the permittee shall write his signature, and the transferee shall write his signature and address in the appropriate space provided upon the permit. The Director shall then affix his signature of approval.

(g) Installation and Operation of Fish Weir. At least one (1) fish weir must be constructed and placed in operation within sixty (60) days after any subsequent removal or destruction during the term of the permit. No owner of a fish weir shall leave a fish weir in the water unattended for a period of fifteen (15) days or more.

(h) Submission of Monthly Catch Records Report. Each permittee shall be required to submit monthly catch records to the Department of Agriculture, Division of Aquatic and Wildlife Resources, commencing thirty (30) day period until its removal.

(i) Removal of Fish Weirs. The owner of a fish weir must remove such fish weirs from the water within thirty (30) days after notice of expiration of his permit unless such permit is renewed.

(j) Revocation of Permit. The Director may revoke a permit for any violation of this regulation upon the completion of a hearing held for such purposes. Notice of the hearing shall be given to the permittee ten (10) days in advance and shall state the violations charged, and the date, time and place of the hearing. Any order of revocation entered pursuant to such hearing shall be effective thirty (30) days after notice of the order of revocation to the permittee by which time he shall surrender his permit to the Director and remove his fish weir from the water.

(k) Disturbance of Fish Weirs. It shall be unlawful for any person not authorized by the owner to remove fish from a fish weir. It shall be unlawful for any person other than the owner to remove, damage or otherwise wilfully disrupt the operation of a fish weir operating under a lawful permit. It shall also be unlawful to use gill nets within one hundred (100) feet of fish weir operating under a lawful permit. (Amended by P.L. 16-39, effective September 11, 1981.)

Section 12311. Taking of Fish. Fish may be taken by lawful means at any time except as prohibited by regulation made under Section 12321, provided, however, that it shall be unlawful for any person to place or maintain a drag net (Chenchulu or tekín) within Agana Boat Basin proper; and further provided that angling and cast-net (talaya) fishing are the only approved methods of fishing within the Agana Boat Basin proper and within fifty (50) feet of the western edge of the Agana Boat Basin channel on conditions as follows:

(a) When angling, not more than three (3) hooks shall be attached to the mainline and no snagging methods shall be used.

(b) The use of the cast-net (talaya) is prohibited from boat slips in the Agana Boat Basin. Within the channel and mooring area, the talaya may be used only between the hours of 4:00 a.m. and 8:00 a.m. Within the other areas of the Agana Boat Basin, the talaya may be used at any time. (P.L. 16-112)

Section 12311.1. Recovery of fish and game. It shall be unlawful for any person to kill, maim or injure any fish or game without making a reasonable effort to retrieve the fish or game and to include it in his or her daily bag or creel limit. (P.L. 12-163)

Section 12312. Unprotected wild animals. The following wild animals may be taken in the daytime:

- (a) Wild dogs.
- (b) Wild cats.
- (c) Reptiles.
- (d) Rats. (Amended by P.L. 8-43, effective July 30, 1965.)

Section 12313. Unprotected wild birds. The following wild birds may be taken in the daytime:

- (a) Black drongos.
- (b) Rock doves (domestic pigeons).
- (c) Black-headed mannikin.
- (d) European tree sparrow. (Amended by P.L. 16-39, effective September 11, 1981.)

Section 12314. Protection of wild birds. It shall be unlawful for any person to take, buy, sell, transport or possess any wild bird, or any part thereof, or wild bird eggs, except as authorized in this Article or as authorized by regulations made under Section 12321.

Section 12315. Protection of wild animals. It shall be unlawful for any person to take, buy, sell, transport or possess any wild animal, or any part thereof, except as authorized in this Article or as authorized by regulations made under Section 12321.

Section 12316. License to take certain wild animals. Any owner or tenant of land or property that is being damaged or destroyed or is in danger or being damaged or destroyed by any protected wild animal or bird may apply to the Director for a license to take such wild animal or bird. The Director, upon satisfactory evidence of such damage or destruction, actual or threatened, may issue a revocable license for the taking of such wild animal or bird. It shall be unlawful for any person to violate the conditions of any license issued under the provisions of this Section.

Section 12317. Special license. The Director may issue, free of charge, to any qualified person, a license to take and transport fish or game, at any time, for scientific or educational purposes. Such a license shall be valid at the discretion of the Director and shall show upon its face the period of its validity.

Section 12318. Importation:harboring.

(a) It shall be unlawful for any person to import any game without first obtaining a license issued by the Director. The Director may, in his discretion, issue such license imposing such conditions on the face thereof as are necessary for the control of such game.

(b) It shall be unlawful to harbor or maintain any protected game in captivity without first obtaining a license issued by the Director. The Director may, in his discretion, issue such a license imposing such conditions on the face thereof as are necessary for the control of such game.

(c) It shall be unlawful for any person to violate the conditions of any license issued under the provisions of this action.

Section 12319. (Repealed by P.L. 11-217, effective March 17, 1973.)

Section 12320. Use of artificial light prohibited. It shall be unlawful for any person to take any game with a spotlight or any other artificial light of any kind. To be found with any spotlight with any rifle, shotgun or other firearm, and with ammunition, after sunset, in any wooded section or other place where any game may reasonably be expected, shall be prima facie evidence of violation of this Section. Provided, however, that this Section shall not apply to the taking of game pursuant to a permit issued in accordance with regulations issued under Section 12321 of this Article. (Amended by P.L. 10-81, effective August 15, 1969.)

Section 12321. Regulations. Regulations implementing this Article shall be formulated, approved and issued in accordance with the procedures set forth in the Administrative Adjudication Act, which regulations may include but shall not be limited to the following:

- (a) to fix, close, terminate, shorten or divide and open season or make open seasons conditional;
- (b) to prescribe the time of day when taking is permitted;
- (c) to regulate bag or creel limits and possession limits;
- (d) to regulate buying, selling or transporting fish and game;

- (e) to regulate the size and type of any device used for taking and regulate any method of taking;
- (f) to regulate or restrict the places where taking is permitted;
- (g) to provide for the issuance of annual hunting and fishing licenses under this Article;
- (h) to set a fee for any license issued: however, in no event shall such fee exceed the sum of Five Hundred Dollars (\$500); and
- (i) to otherwise implement or carry out the purposes of this Article. (Amended by P.L. 16-39, effective September 11, 1981.)

Section 12322. Illegal use of nets, vessels including engines, motors, and all vessel accessories, traps, firearms, electrical devices, vehicles, seizure, forfeiture proceeding; sale or destruction. Any net, vessel, including engines, motors and all vessel accessories, traps, firearms, electrical devices, and vehicles used for taking or transporting fish or game taken in violation of the provisions of this Article is a public nuisance. Every person authorized to make an arrest for such violations shall seize and keep such net, vessel, including engines, motors and all vessel accessories, trap, firearm, electrical device, or vehicle and report the seizure to the Department of Agriculture.

The Department of Agriculture shall commence proceeding(s) in the Superior Court by petitioning the court for a judgement forfeiting the article or articles seized. Upon the filing of such petition, the clerk of court shall fix a time for a hearing and cause notices to be posted for fourteen (14) days in at least two (2) public places in the place where the court is held and in the Commissioner's Office of the village wherein the person from whom the article or articles were seized resides, setting forth the substance of the petition and the time and place fixed for its hearing. Upon proof that the article or articles seized were used in violation of this Article, the court shall order the article or articles forfeited. Any article so forfeited shall be sold, used or destroyed by the Department of Agriculture. The proceeds from all such sales shall be paid into the Wildlife Conservation Fund. (Amended by P.L. 16-39, effective September 11, 1981.)

Section 12323. Penalty. Any person violating any provisions of this Article and supporting regulations shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than Fifty Dollars (\$50), nor more than Five Hundred Dollars (\$500) or by imprisonment of not more than ninety (90) days or by both such fine and imprisonment. Provided that a person violating Sections 12303, 12304, 12305, 12306 or 12307 of this Article is guilty of a felony punishable by imprisonment for not more than five (5) years, or by a fine of not less than Five Hundred Dollars (\$500), nor more than Five Thousand Dollars (\$5,000), or by both. (Amended by P.L. 16-39, effective September 11, 1981.)

Section 12324. Wildlife Conservation Fund.

(a) There is hereby established a fund to be known as the "Wildlife Conservation Fund" which shall be maintained separate and apart from any other funds of the Government of Guam and independent records and accounts shall be maintained in connection therewith. All license fees collected under this Article shall be deposited in said fund.

(b) The Wildlife Conservation Fund shall be used exclusively for the purposes of the Administration of this Article. Said fund shall be examined and reported upon by the Director of Administration as required by law. (Added by P.L. 7-46, effective July 8, 1963)

(Original Sections 12300-12310, as added by P.L. 3-103, effective August 1, 1956, repealed by P.L. 6-87, effective March 12, 1962. New Sections 12300-12323 added by P.L. 6-87, effective March 12, 1962, and amended as noted herein. New Sections 12306.1, 12307.1, 12308.1 and 12308.2 added by P.L. 16-39, effective September 11, 1981, and amended as noted herein.) ("Director of Finance" changed to "Administration" by editor).

- (1) The present or threatened destruction, modification or curtailment of habitat or range;
- (2) Over-utilization for commercial, sporting, scientific or educational purposes;
- (3) Diseases or predation;
- (4) The inadequacy of existing regulatory mechanisms; or
- (5) Other natural or man-made factors affecting its continued existence.

(d) The Department shall establish priorities for the conservation and protection of resident threatened or endangered species of plants and wildlife and their associated ecosystems.

(e) The Department is authorized to enter into agreements with Federal or other public agencies, private agencies or any person for administration, research or the management of any area, including aquatic, established under this Section or utilized for the conservation, management, enhancement or protection of threatened or endangered resident species of plants and wildlife as defined herein.

(f) The Department shall acquire by purchase, donation or otherwise, lands, aquatic habitats or interests therein for the conservation of resident endangered species or threatened species needed to carry out the programs relating to the intent of this Act; and, to submit to the Governor of Guam plans, programs, remedies or recommendations which will carry out the purposes of this Act.

(g) The Department shall be authorized to conduct investigations to determine the status and requirements for survival of resident species of plants and wildlife.

Section 12325.5. Prohibitions.

With respect to any threatened or endangered species of plants or wildlife of Guam and the United State, it is unlawful, except as provided herein, for any person or organization, subject to the jurisdiction of Guam, to:

- (a) import or export any such species to or from Guam and its territory;
- (b) take any such species within Guam and its territory;
- (c) possess, process, sell or offer sale, deliver, carry, transport or ship, by any means whatsoever, any such species, or wildlife at the time those provision is enacted into law, may retain, process or otherwise dispose of those plants or wildlife already in his possession;
- (d) violate any regulation or rule pertaining to the conservation, protection, enhancement or management of any designated threatened or endangered species.

Section 12325.6. Permits.

The Department may permit, through licenses, stamps, certificates or agreements, under such terms and conditions as it may prescribe, Section 12325.5 notwithstanding an act for the enhancement, perpetuation, conservation or survival of the affected species in question, provided that such permits are not contrary to the U.S. Endangered Species Act of 1973.

Section 12325.7. Enforcement.

(a) Any authorized officer or agent empowered by the Department with police powers to serve and execute warrants; to arrest offenders; or, to issue citations throughout Guam; or any officer and agent of Guam Customs and Quarantine, or any police officer of Guam shall have the authority to enforce any of the provisions of this Act or any regulation, rule or order promulgated pursuant hereto (Amended by P.L. 15-97).

(b) Any officer or agent authorized pursuant to paragraph (a) shall have the authority to conduct searches, as provided by law, and to seize any equipment, business records, merchandise of any threatened or endangered species of plants and/or wildlife hereunder; and, any of the foregoings to seized shall be held by the Department, pending disposition by court proceedings, or the Department, prior to the forfeiture, may direct the transfer of plants or wildlife so seized to a qualified zoological, botanical, educational or scientific institution for safekeeping, costs thereof to be paid by the defendant. Upon conviction of the person or persons from whom the seizure was made, the court shall declare the items seized forfeited to the government of Guam. Such items shall be destroyed, or be transferred, or be released into its normal habitat, if possible, by the Department as outlined herein.

(c) Upon proper oath or affirmation showing probable cause, the judges or magistrates of Guam courts, shall issue such warrants or other process as may be required for endorsement of this Act and any regulation, rule or order issued thereunder.

Section 12325.8. Penalties.

(a) Any person or persons who non-commercially knowingly violates any of the provisions of this Act or the provisions of any regulation, rule or order promulgated hereunder, shall be fined not more than Two Hundred Fifty Dollars (\$250).

(b) Any person or person who knowingly violates, or who knowingly commits an act in the course of a commercial activity which violates any provision of any permit, certificate, stamp, agreement, rule, regulation, order or other, issued to implement this Act, may be assessed a civil penalty by the court of not more than Five Thousand Dollars (\$5,000) for each violation or be imprisoned for not more than three (3) years or both. Each violation shall be a separate offense. No penalty may be assessed unless such person is given notice and opportunity for a court hearing with respect to such violations.

(c) The Department shall suspend, for a period of one (1) year, any hunting licenses, fishing permits (including shells, corals, shellfish and other fish weirs) or other stamps, certificates, leases or agreements issued to any person or persons who are convicted of a violation of any provision of this Act or any regulation, rule or order issued hereunder (Amended by P.L. 15-97).

(d) The government of Guam shall not be held liable for the payments of any compensation, reimbursement or damages in connection with the modifications, suspension or revocation of any leases, licenses, permits, stamps, certificates pursuant to the purposes of the Act.

(e) All guns, traps, nets and other equipment, vessels, vehicles, aircraft and other means of transportation used to aid the taking, possessing, selling, purchasing, offering for sale or purchase, transporting, delivering, receiving, carrying, shipping, exporting any plants or wildlife in violation of this Act, any regulation made pursuant thereto or any permit or certificate or agreement made or issued thereunder shall be subject to forfeiture to the government of Guam upon conviction of a criminal violation pursuant to Subsections 12325.4, 12325.5 and 12325.7 (Amended by P.L. 15-97).

(f) The Department may sell forfeited items, the resultant monies to be deposited in the Conservation Fund to promote the welfare of plants and wildlife.

Section 12325.9. Severability.

Should any section, subsection, paragraph, sentence, clause or phrase of this Act or any regulation, rule or order, promulgated pursuant thereby be held invalid for any reason by a competent court of jurisdiction, such decision shall not affect the validity of the remaining portions of this Act or regulation, rule or order promulgated pursuant thereto.

Section 12325.10. Citizen Suits.

(a) Any person may commence a civil suit on his behalf:

(1) to enjoin any person, including the government of Guam, or any other governmental instrumentality or agency (to the limits permitted by the eleventh amendment to the Constitution of the United States), who is alleged to be in violation of any provision of this Act, or regulation, rule or order issued under the authority thereof; or

(2) to compel the Department to apply the prohibitions set forth in or authorized pursuant to this Act with respect to the taking or causing deleterious effects which further jeopardize the continued existence of threatened or endangered species.

(b) The Superior Court shall have jurisdiction to enforce any such provision, regulations, rule or order, whichever the case. In any civil suit commenced under Subparagraph (2), the court shall compel the Department to apply the prohibition sought if the court finds that the allegation that an emergency exists is supported by substantial evidence.

(c) No action may be commenced under Subparagraph (a) or (b) of this Subsection:

(1) prior to sixty (60) days after written notice of violation has been given to the Department, or to any alleged violator of any such regulation, rule or order;

(2) if the Department has commenced action to impose a penalty pursuant to Subsections 12325.4, 12325.5 and 12325.7 of this Act.

(d) The court, in issuing any final order in any suit brought pursuant to this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(e) The injunctive relief provided herein shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of standard or limitation or seek any other relief (including relief against the government of Guam or its agencies).

Article III

Repealed by P.L. 12-209

Article IV

Repealed by P.L. 12-209

ARTICLE II

The Endangered Species Act of Guam (P.L. 15-36, enacted June 18, 1979)

§ 12325	Title.
§ 12325.1	Purposes.
§ 12325.2	Definition.
§ 12325.3	Policy.
§ 12325.4	Authority.
§ 12325.5	Prohibitions.
§ 12325.6	Permits.
§ 12325.7	Enforcement.
§ 12325.8	Penalties.
§ 12325.9	Severability.
§ 12325.10	Citizen suits.

Section 12325. Title.

This act shall be known as "The Endangered Species Act of Guam".

Section 12325.1. Purposes.

The purposes of this Act are to provide authorization whereby the ecosystem upon which resident endangered or threatened species depend, may be protected and conserved; to develop and provide a program for the conservation and management of such endangered and/or threatened species; and, to take such steps and measures as may be appropriate to achieve the purposes of the Endangered Species Act of 1973, U.S. P.L. No. 93-205 U.S. Congress, 28 December 1973.

Section 12325.2. Definition, for the Purposes of This Act.

(a) 'Agent, Employee or Officer' means any Department employee authorized by the Director to carry out any power granted by this Act.

(b) 'Conserve, Conserving and Conservation' mean the use of any and all populations of plants and wildlife declared threatened or endangered and to bring them to the point at which the measures provided pursuant to this Act, are no longer necessary. Such methods and procedures include, but are not limited to censuses, methods and procedures include, but are not limited to censuses, research, law enforcement, habitat acquisition and maintenance, propagation, live trapping, transplantation, regulated taking or confiscation.

(c) 'Department' means the Department of Agriculture, or in the case of changing functions, that agency designated by the government of Guam to be charged with the husbandry of the natural resources of plants and wildlife.

(d) 'Ecosystem' means all natural elements, physical and biological, of the habitat or site in which any plant or wildlife species is found and upon which it is dependent for its well-being.

(e) 'Endangered Species' means any species which is in danger of extinction on Guam and has been so designated pursuant to the provisions of this Article or that has been determined to be an endangered species pursuant to the U.S. Endangered Species Act of 1973.

(f) 'Resident Species' means any plant or wildlife species which spends any part of its life on Guam.

(g) 'Threatened Species' means any species of plant or wildlife which appears likely, within the foreseeable future, to become endangered and which has been so designated by the Department pursuant to this Chapter, or that has been determined to be a threatened species pursuant to the U.S. Endangered Species Act of 1973.

(h) 'Import' means to land on, bring into or introduce into, or attempt to land on, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the custom laws of Guam and the United States.

(i) 'Person' means an individual, corporation, partnership, trust, association or any other private entity, or any officer, employee, agent, department or instrumentality of the Federal government, of any state, territory, commonwealth or political subdivision thereof or of any foreign government.

(j) 'Plants' means any member of the plant kingdom, including seeds, roots, other parts thereof.

(k) 'Secretary' means, except as otherwise herein provided, the U.S. Secretary of the Interior or the U.S. Secretary of Commerce as program responsibilities are vested pursuant to the provisions of the U.S. Reorganization Plan Number 4 of 1970; except that with respect to the enforcement of the provisions of the U.S. P.L. No. 93-205 and the Convention on the International Trade in Endangered Species of Wild Fauna and Flora which pertain to the importation or exportation of terrestrial plants, the term means U.S. Secretary of Agriculture.

(l) 'Species' means and subspecies of plants or wildlife and any other group of plants or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature.

(m) 'Take' means to cut, collect, uproot, destroy, injure or possess threatened or endangered species of plants, or to attempt to engage in any such conduct or to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, snare or collect threatened or endangered species or wildlife.

(n) 'Wildlife' means any resident member of the animal kingdom including without limitation, reared in captivity or not, including any mammal, bird, amphibian, reptile, fish, crustacean, mollusk or other invertebrate; and, includes any parts thereof, except those species of the Class Insecta which have been declared as pests whose protection under the provisions of this Act would present an overwhelming and overriding risk to man, providing this is in conformance with the Federal law.

Section 12325.3. Policy.

It is declared to be the policy of the government of Guam that all departments and agencies shall seek to conserve Guam's resident threatened and endangered species and that they shall utilize their authorities in furtherance of the purposes of this Act by taking such steps as are necessary to insure that action authorized, funded or carried out by them do not jeopardize the continued existence of Guam's threatened or endangered species or those mandated by the United States Government.

Section 12325.4. Authority.

(a) Regulatory power for the purposes of this Act shall be vested in the Department of Agriculture hereinafter referred to as the 'Department' which is responsible for the management and the conservation of plant and wildlife resources of the territory of Guam.

(b) The Department shall conduct all research, investigation and listing of resident threatened or endangered species of plants and wildlife; and all programs for the conservation, management, enhancement or protection of such species; and upon its own recommendation or upon the petition of three persons, shall conduct a review of any listed or unlisted resident species proposed to be on the list published pursuant to the authority herein.

(c) Annually, the Department shall promulgate a list of endangered species. The list of endangered species shall be submitted to each village commissioner for review and comment prior to the hearing on adoption of the list held in accordance with the Administrative Adjudication Act. The list shall be adopted in accordance with the Administrative adjudication Act and then be subject to approval by the Legislature, provided, however, that if the Legislature fails to act on the list of endangered species within twenty (20) legislative days following receipt thereof, then the list of endangered species shall be deemed approved by the Legislature. No additions or deletions may be made to the list without conformance with the procedural requirements for adoption of the list. Each list shall be effective for not more than fourteen (14) months following approval by the Legislature. The Department shall promulgate such rules, regulations or orders in accordance with the Administrative Adjudication Act and any rules or regulations shall be subject to approval by the Legislature, provided, however, that if the Legislature fails to act on the rules or regulations within twenty (20) legislative days following receipt thereof, then the rules or regulations shall be deemed approved by the Legislature. The purpose of the rules, regulations or orders shall be to improve and enhance the welfare of endangered or threatened species after determining on the basis of the best scientific and commercial data available and upon consultation with interested persons, the public, and other appropriate agencies, as to whether or not any species is and endangered or threatened species because of, but not limited to, any of the following factors:

ARTICLE V

Live Coral and Fishing Nets

- § 12380. Taking of live coral: unlawful.
- § 12381. Harvesting of coral.
- § 12382. Commercial permits.
- § 12383. Penalties.
- § 12384. Enforcement.
- § 12385. Mesh size of fishing nets: net, minimum size
- § 12386. Fishing area restrictions.
- § 12387. The use of poisons, electrical devices and mesh nets for scientific purposes.
- § 12388. Penalty.

Section 12380. Taking of live coral: unlawful. It shall be unlawful to remove live coral from that area surrounding the Island of Guam extending from the shore of the island outwards to the ten fathom contour, except in accordance with this Article.

Section 12381. Harvesting of coral.

(a) The commercial harvesting of coral may be conducted by obtaining a license from the Director of Agriculture and the payment of a fee as established by the Director.

(b) For purposes other than the sale of coral, live coral may be taken only by obtaining a license from the Director of Agriculture, such license being limited in time to a maximum of five (5) days at any given time and to a specific location from which the coral is to be taken, and for such license a fee may be charged. The Director may restrict the amount of coral be taken under any license and may impose such other restrictions as may be necessary to insure the conservation of our coral fields.

Section 12382. Commercial permits.

(a) Permits for the Commercial taking of coral may be issued by the Director of Agriculture upon the following conditions:

1. The permit must state the individual or individuals who will be taking the coral;
2. The permit must state the time, date and location from which the coral is to be taken;
3. The Director may limit each permit to a specified amount of coral to be taken, taking into account the location from which the coral is to be taken, the amount of living coral remaining and the likelihood of damage caused to the reef area by the taking of the coral.

(b) The Director of Agriculture may, by regulation, establish a fee schedule based upon the amount of value of the coral to be taken commercially; establish areas on Guam where no coral may be taken, limited coral may be taken or unlimited coral may be taken, and impose any other restrictions necessary for the conservation of our coral reserves, all subject to the permits as required by this Article.

Section 12383. Penalties. Any violation of this Article or the regulations and permits issued pursuant to it shall be a misdemeanor punishable by a fine of not more than five Hundred Dollars (\$500) or by imprisonment of not more than six (6) months or by both such fine and imprisonment for each offense.

Section 12384. Enforcement. This Act shall be enforced primarily by the Director of Agriculture and the Conservation Officers as authorized by Section 12302 of this Title and secondarily by Peace Officers defined in Section 851 of the Penal Code of Guam. (Section 12380-12384 added by P.L. 12-166, effective November 20, 1974.)

Section 12385. Mesh size of fishing nets: net, minimum size. It shall be unlawful for any person to use net (other than small hand nets) with a stretched mesh of less than one and one-half (1½) inches, provided, however, that:

(a) persons catching live fish for aquarium purposes may obtain permits from the Director of Agriculture for the use of small mesh nets to capture aquarium type of fish only. For purposes of this regulation, the manahak, (rabbitfish) ti'ao (juvenile goatfish), i'e' (juvenile carangid), and aguas (juvenile mullet), are not considered aquarium type fishes. A small hand net is defined as a framed net, usually with a handle attached and the greatest frame opening not exceeding twelve (12) inches.

(b) persons engaging in tuna fishing may apply for permits from the Director of Agriculture to capture live bait fish such as minnow (spratelloides), ginyo (atherinidae), fadya (engraulidae), and other suitable bait fish; but will not include the aguas ti'ao, i'e' and manahak.

(c) that the above provisions stipulated in Subsections (a) and (b) are not applicable in any areas designated as conservation areas where the taking of all seasonal fishes are prohibited.

This restriction shall not apply to traditional methods when used for the taking of seasonal juveniles such as rabbitfish (manahak), skipjace (i'e'), goatfish (ti'ao), herring (menis) and mullet (aguas). (Amended by P.L. 16-39, effective September 11, 1981).

Section 12386. Fishing Area Restrictions. No fishing shall be permitted in the Luminao Barrier Reef, on the Philippine Sea side from Cabras Island to the extreme western tip of the Glass Breakwater. The prohibition imposed in this Section shall expire on October 1, 1983 (P.L. 16-114).

Section 12387. The use of poisons, electrical devices and mesh nets for scientific purposes.

(a) The Department of Agriculture shall have the authority to issue permits for the use of poison, electrical devices or small mesh nets for the purposes of bonafide scientific research.

(b) Limitations and Prohibitions.

(1) Each person employing a restricted device or compound shall be required to have a permit in his possession; and

(2) The permit shall specify (i) the name of the permittee, (ii) the device or compound for which the permit was issued, (iii) the area in which the device or compound is used, and (iv) the duration of the permit, which will, in no case, exceed one (1) week, at which time it may be renewed.

(c) Application for Permits. Any applicant of a permit for the use of a restricted device or compound in the waters of Guam shall submit complete and signed applications for the use thereof to the Director of Agriculture (hereinafter referred to as Director) in a form prescribed by him. The applications shall show;

(1) the name and address of the applicant;

(2) the device or compound that is to be used;

(3) the area requested to be covered by the permit;

(4) the time span for which the permit is to be valid;

(5) a brief description of the research project; and

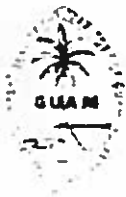
(6) the academic affiliation of the applicant.

(d) Investigation. Upon receipt of a complete and signed application, the Director shall promptly cause an investigation of all aspects of the application to be made, the duration of which shall not exceed three (3) days.

(e) Issuance of Permit. When all the requirements set forth in this Section have been met and the application has been approved by the Director, he shall issue a permit in a form prescribed by him. The original copy shall be given to the permittee and a duplicate copy shall be retained by the Director of Agriculture. The permit shall be non-transferrable.

(f) A duly issued and valid permit shall exempt the holder thereof from violation of sections 12306.1, 12307.1 and, when traditional methods are used, Section 12305 of this Code. (Added by P.L. 16-39, effective September 11, 1981.)

Section 12388. Penalty. Any violation of this Article shall be punished as prescribed in Sections 12322 of the Government Code. (Added by P.L. 16-39, effective September 11, 1981.)



DEPARTMENT OF PARKS AND RECREATION
GOVERNMENT OF GUAM

W.H.



JUL 26 1988

Memorandum

To: Director, Bureau of Planning
From: Director, Department of Parks and Recreation
Subject: Exclusive Economic Zone Authorities

Attached are forwarded per memorandum from Governor Ada, dated July 8, 1988:

1. Public Law 93-435 - Submerged Land Act for Guam; October 5, 1974; 48 CFR 1704-5.
2. Public Law 100-298 - Abandoned Shipwreck Act; 1988.
3. Public Law 12-209 - Department of Parks and Recreation Act; January 23, 1974.
4. Public Law 12-126 - Historic Objects and Sites^e Act; 1974.

Our responsibilities to the Exclusive Economic Zone are based upon these laws implemented by local laws.

A. C. Mariano
ANTHONY C. MARIANO

Attachments



Public Law 14-12
Fourteenth Guam Legislature
(Bill 28)

AN ACT

Approved to amend Section 26007 and to add a new Section 26009.1 of Chapter 1 of Title XXVII (Public Law 12-209) of the Government Code relative to the listing of Parks and Recreation areas of the Guam Territorial Park System.

Be it enacted by the People of the Territory of Guam:

Section 1. Section 26007 (Public Law 12-209) of the Government Code is hereby amended to read as follows:

"Section 26007. Guam Territorial Park System. There is hereby created the Guam Territorial Park System. The Director of Parks and Recreation shall inventory all properties belonging to the government of Guam and determine which properties shall be included therein. A detailed list shall be forwarded to the Speaker of the Legislature and the Legislature shall, after public hearing and report by the appropriate standing committee, approve or disapprove those properties to be included within the Territorial Park System, as designated under Section 26009.1, within thirty (30) legislative days following receipt of such a list and failure to so act shall be deemed consent by the Legislature. The list shall be added to or deleted as deemed necessary."

Section 2. A new Section 26009.1 is hereby added to the Government Code to read as follows:

"Section 26009.1. Reserved properties. Pursuant to Sections 26007 and 26009 of this Chapter, the below described properties are reserved for public parks according to their respective classifications in numerical order:

- (a) Natural Preserves.
- (b) Conservation Reserves.
- (c) Territorial Parks or Community Parks.
- (d) Territorial Recreation Facilities or Community Recreation Facilities.
- (e) Historical and Pre-Historic Objects and Sites."

Section 3. This is an urgency measure.

Approved April 5, 1977

~~13985.27~~ . Reproduction of prehistorical or historical objects; representation as originals; penalties. It shall be unlawful to reproduce or forge a prehistorical or historical object with the intent to represent it as an original. Any person who violates this section shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned not more than ninety (90) days, or both.

~~13985.28~~ Removal and trespass. It shall be deemed an act of trespass for any person, natural or corporate, to remove artifacts and antiquities of the kind described herein from the private land of any owner thereof without his permission being first obtained, and any person so doing shall be guilty of a misdemeanor punishable by a fine not exceeding Five Hundred Dollars (\$500) or by imprisonment for a period not to exceed six (6) months, or both.

Part III

Protection and Recovery of Underwater Historic Property and Sites

- § 13985.29. Declaration of legislative intent
- § 13985.30. Definitions
- § 13985.31. Title to underwater historic property
- § 13985.32. Custody of underwater historic property
- § 13985.33. Salvage research
- § 13985.34. Permits
- § 13985.35. Penalties

§ 13985.29. Declaration of legislative intent. The Legislature declares that the public has an interest in the protection and salvage of underwater historic properties situated under the navigable waters and territorial seas of the territory; that the public has a right to the knowledge to be derived and gained from a scientific study of these materials; and that therefore it is the purpose of this part to provide that activities for the protection, recovery, study, and exhibition of underwater historic properties be undertaken in a coordinated and organized manner for the general welfare of the public as a whole.

§ 13985.30. Definitions. As used in this part, 'underwater historic property' means any shipwreck, vessel, cargo, tackle, or underwater archaeological specimen, including any found at refuse sites or submerged sites of former habitation, that has remained unclaimed for more than ten (10) years on the bottoms of any waters.

§ 13985.31. Title to underwater historic property. Subject to any statute of the United States and any vested riparian rights, the title to all bottoms of navigable water within Guam's boundaries and the title to any underwater historic property lying on or under such bottoms is declared to be in the territory, and such bottoms and underwater historic properties shall be subject to the exclusive dominion and control of the territory.

§ 13985.32. Custody of underwater historic property. The custodian of underwater historic properties as defined in § 13985.29 and § 13985.30 shall be the Department which shall administer the preservation and protection of these properties as hereinafter directed by this part. The Department is empowered to prescribe such rules and regulations as may be necessary to preserve, protect, and recover any or all underwater historic properties.

§ 13985.33. Salvage research. The Department shall establish a center responsible for salvage research in areas designated by the Department as endangered by the lease, sale, or use of public or private lands.

§ 13985.34. Permits. Any qualified persons, firm, or corporation desiring to conduct any type of exploration or recovery operations, in the course of which any underwater historic property or part thereof may be removed, displaced, or destroyed, shall first make application to the Department for a permit to conduct such operations. If the Department finds that the granting of such permit is in the best interest of the territory, it may grant such applicant a permit for such a period of time and under such conditions as the Department deems to be in the best interest of the territory. Such permit may provide for the fair compensation to the permittee in terms of a percentage of the reasonable cash value of the objects recovered or a fair share of the objects recovered, such fair compensation or share to be determined by the Department. Superior title to all objects recovered shall be retained by the territory unless or until they are released to the permittee by the Department. All exploration and recovery operations undertaken pursuant to a permit issued under this section shall be carried out under the general supervision of the Department and in accordance with the rules and regulations

prescribed under § 13985.32 and in such manner that the maximum amount of historic, scientific, archaeological, and educational information may be recovered and preserved in addition to the physical recovery of items. Permits may be renewed upon or prior to expiration upon such terms as the Department may specify. Holders of permits shall be responsible for obtaining permission of any federal agencies having jurisdiction prior to conducting any salvaging operations.

§ 13985.35. Penalties. Any person violating the provisions of this part or any rules and regulations duly established thereunder shall be guilty of a misdemeanor punishable by a fine not exceeding Five Hundred Dollars (\$500) or by imprisonment for a period not to exceed six (6) months, or both, and, in addition, shall forfeit to the territory any artifacts or objects collected.

Part IV

Guam Institute of Spanish-Chamorro Culture

- § 13985.36. Statement of purpose
- § 13985.37. Establishment of Guam Institute of Spanish-Chamorro Culture; board of trustees
- § 13985.38. Powers and duties
- § 13985.39. Development of support programs
- § 13985.40. Annual report

§ 13985.36. Statement of purpose. The purpose of this part is to create a nonprofit corporation for historic and cultural preservation, research, restoration, presentation, museum activities, and support programs; and in cooperation with and in assistance to the Department and other territorial agencies to receive sites, buildings, and objects significant in Guam's history and culture, to preserve and administer them for public benefit; to accept, hold, and administer gifts, securities, grants, scholarships, endowments, private bequests, or other property of whatsoever character for a comprehensive historic and cultural preservation and museum's program.

This corporation shall be the depository of all resources which are made available or offered of desirable land, historical collections, and donations made by groups and persons as gifts to the territory to help insure the Spanish-Chamorro heritage.

§ 13985.37. Establishment of the Guam Institute of Spanish-Chamorro Culture; board of trustees. There is created an educational, nonprofit corporation to be known as the Guam Institute of Spanish-Chamorro Culture which shall be headed by a board of trustees.

The board shall consist of eleven (11) members of which the following shall serve as ex-officio voting members of the board:

- (1) President of the University of Guam,
- (2) Director of the Micronesia Area Research Center,
- (3) Director of the Central Planning Commission,
- (4) Director of Parks and Recreation,
- (5) Attorney General.

The remaining members shall be chosen by the members of the Institute from its membership at any regular meeting of the Institute except that the initial members of the board shall be appointed by the Governor. Each member of the board other than ex-officio members shall serve for a term of five (5) years from the expiration of his predecessor's term, except that the members first appointed shall serve for terms of from one (1) to five (5) years as designated by the Governor at the time of appointment.

A vacancy in the board shall be filled for the balance of the unexpired term as prescribed in the rules and regulations of the Institute. The chairman of the board shall be elected by majority vote of the members of the board. No compensation shall be paid to members of the board of trustees for their services as such members, but they may be reimbursed for travel and actual and reasonable expenses necessarily incurred by them in attending board meetings and performing other official duties on behalf of the Institute at the direction of the board.

Membership shall be open to any resident of Guam upon payment of such reasonable fees as the board of trustees may prescribe. (Amended by P.L. 12-209, effective January 23, 1975.)

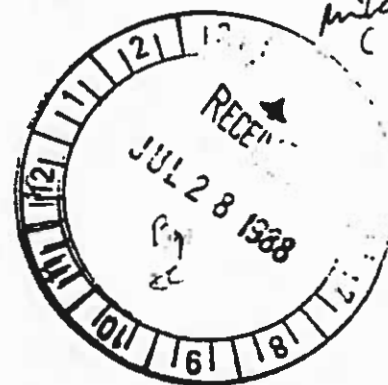
§ 13985.38. Powers and duties. The Guam Institute of Spanish-Chamorro Culture shall have the following powers and duties:

- (1) To have succession until dissolved by act of the Legislature, in which event title to the properties of the Institute, both real and personal, shall, insofar as consistent with existing contractual obligations and subject to all other legally enforceable claims or demands by or against the Institute, pass to and become vested in the territory;
- (2) To sue or be sued in its corporate name;
- (3) To adopt, alter, and use a corporate seal;
- (4) To adopt a constitution and to make such bylaws, rules, and regulations, not inconsistent with the laws of the territory, as it deems necessary for the administration of its functions, bylaws, rules, and regulations governing visitation to historic properties, museums, and other facilities under its control, administration of corporate funds, and



GOVERNMENT OF GUAM
AGANA, GUAM 96910

JUL 28 1988



DC-EDP-159

Memorandum

To: Director, Bureau of Planning
From: Director, Department of Commerce
Subject: Exclusive Economic Zone Authorities

This is in response to the Governor's memorandum requesting a listing of all local and federal laws and agreements pertaining to any activity within the area from the MHW to a distance of 200 nautical miles seaward.

My department currently has no responsibilities under federal laws pertaining to the above subject. However, my department has agreements with the following programs pertaining to the aforementioned:

1. Pacific Fisheries Development Foundation (PFDF) - I serve as the Governor's appointed representative on the Board. Department of Commerce has several fishery grants through PFDF.
2. National Marine Fisheries Service (NMFS) - The department is implementing boat ramp construction grant.
3. Interjurisdictional Fisheries Act of 1986 (IFA) - The department has been appointed the lead agency for the IFA program.
4. Committee for Co-ordination of Joint Prospecting for Mineral Resources in South Pacific Offshore Areas (COOP/SOPAC) - I serve as the representative for the Government of Guam.

In addition to the above programs, I serve as Guam's representative to the Western Pacific Fisheries Management Council which deals with the management of the fisheries resource within the exclusive economic zone.

For more information regarding the above programs listed, please contact my office.


PETER R. BARCINAS
Acting



University of Guam

OFFICE OF THE ACADEMIC VICE PRESIDENT

UOG Station * Mangilao, Guam 96923

Cable: "UnivGuam" * Telex: 721 6275

Tel: (671) 734-3434



July 13, 1988

MEMORANDUM

To: Mr. Peter P. Leon Guerrero,
Director, Bureau of Planning

From: Academic Vice President/Acting President

Subject: Exclusive Economic Zone Authorities

Pursuant to Governor Joseph F. Ada's memo of 8 July 1988 relative to the Exclusive Economic Zone, I am forwarding a copy of PL 94-265 (Magnuson Fishery Conservation and Management Act of 1976) as amended by PL 95-354, PL 96-61, PL 96-561 and PL 97-453. University faculty members have served on the Western Pacific Regional Fishery Management Council and still continue to serve on its Scientific and Statistical Committee.

If you have any further questions, Dr. Steven S. Amesbury (Director, Marine Laboratory) will be please to answer them.


ROY T. TSUDA

Attachment

cc: President
Director, Marine Lab

GUAM POLICE DEPARTMENT

4-
GCMF

AUG 10 1988



MEMORANDUM

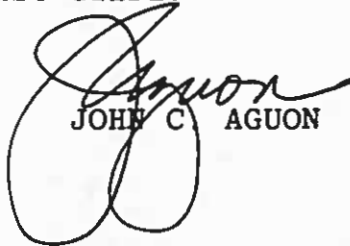
To: Director, Bureau of Planning
From: Chief, Guam Police Department
Subject: GPD Marine Function (EEZ).

The Guam Police Department has law enforcement jurisdiction over Territorial Waters, (10 GCA Chapter 16, Section 69101(A)(B)(C)).

Although our marine functions are primarily Boating Safety activities, rescues and drug smugglings are also performed. Additionally the recently signed mutual aid with the United States Coast Guard would expand our now limited marine enforcement capability by the joined services of our functions.

Please find in the enclosed:

1. Copy of a portion of the GCA Territorial Boating Act.
2. Territorial Boating Rules and Regulations.
3. Memorandum of Understanding between Government of Guam and the United States Coast Guard.


JOHN C AGUON

Enclosures

10 GCA Chapter 68 - Veterans Bonuses

(c) The Director of Public Safety, upon satisfactory proof that such applicants were civilian scouts or are such a civilian scout's survivor or survivors, shall certify to the Treasurer of Guam the eligibility of such applicants for such bonuses, and the Treasurer shall thereupon pay the same to them. The Director of Public Safety shall promulgate, pursuant to the provisions of the Administrative Adjudication Act, such rules and regulations as are required to establish eligibility for such bonus by way of documentary evidence of such civilian scout service, affidavits based on personal knowledge, or such other proof as would establish by a preponderance of the evidence the fact of eligibility for such bonus.

SOURCE: §8991 GC, as amended by P.L. 15-145.

§68402. No Payment to Those Assisting Applicants.

No person may charge any fee or collect any commission for assisting an applicant for such bonus to prove eligibility or obtain the bonus. Any contract in violation of this Section shall be void, and any person who shall collect any fee or commission in violation of this Section shall be guilty of a misdemeanor punishable by a fine of not to exceed Five Hundred Dollars (\$500.00), or by imprisonment for not to exceed six (6) months, or by both such fine and imprisonment.

SOURCE: §8992 GC.

§68403. Members of the Legislature and Others Ineligible.

Notwithstanding any other provision of this Chapter, no member of the Tenth Guam Legislature, and no person who received the bonus under Article 2 of this Chapter, shall be eligible for the bonus authorized herein, but any member of the Legislature otherwise entitled thereto shall in lieu of such bonus be given an appropriate certificate of appreciation.

SOURCE: §8993 GC.

10 GCA Chapter 69 - Territorial Boating Act

CHAPTER 69

TERRITORIAL BOATING ACT

- §69100. Declaration of Policy.
- §69101. Definitions.
- §69102. Operation of Unnumbered Vessels Prohibited.
- §69103. Exemption From Numbering Provisions of This Act.
- §69104. Identification Number.
- §69105. Certificate: Duration.
- §69106. Acceptance of Prior Record of Title.
- §69107. Government Vessels.
- §69108. Assignment.
- §69109. Suspension, Cancellation, Revocation.
- §69110. Abandoned Vessel Fund.
- §69111. Security Interest: Validity.
- §69112. Same: Notice.
- §69113. Classification and Required Equipment.
- §69114. Boat Liveries.
- §69115. Muffling Devices.
- §69116. Prohibited Operation.
- §69117. Collisions, Accidents and Casualties.
- §69118. Transmittal of Information.
- §69119. Water Skis, Aquaplanes, Surfboards, or Similar Devices.
- §69120. Safe Loading.
- §69121. Regattas, Races, Marine Parades, Tournaments or Exhibitions.
- §69122. Territorial Waterway Marker System.
- §69123. Authority for Special Rules.
- §69124. Comprehensive Safety and Educational Program.
- §69125. Owner's Civil Liability.
- §69126. Filing of Regulations.
- §69127. Coordination Under Federal Laws.
- §69128. Enforcement.
- §69129. Penalties.
- §69130. Severability.

§69100. Declaration of Policy.

It is the policy of this Territory to promote safety for persons and properties in and connected with the use, operation and equipment of vessels and to promote uniformity of laws relating thereto.

SOURCE: §8995.1 GC.

10 GCA Chapter 69 - Territorial Boating Act

§69101. Definitions.

As used in this Act unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(2) "Motorboat" means any vessel not more than sixty-five (65) feet in length propelled by machinery whether or not such machinery is the principal source of propulsion.

(3) "Owner" is a person having all the incidents of ownership, including the legal title of a vessel or a person holding equitable title to the vessel as the purchaser under a conditional sale contract or as the mortgagor of a vessel.

→ (4) "Waters of this Territory" means any waters within the territorial limites of Guam, and the marginal sea adjacent to Guam and the high seas when navigated as a part of a journey to or from the shore of Guam.

(5) "Person" means an individual, partnership, firm, corporation, association or other legal entity.

(6) "Operate" means to navigate or otherwise use a vessel.

(7) "Operator" means the person who operates or has charge of the navigation or use of a vessel.

(8) "Undocumented vessel" means a vessel which is not required to have and does not have a valid marine document issued by the United States Coast Guard or Federal agency successor thereto.

(9) "Reportable boating accident" means an accident, collision, or other casualty involving a vessel subject to this Act which results in loss of life, injury sufficient to require first aid or medical attention, or actual physical damage to property including vessels in excess of One Hundred Dollars (\$100).

(10) "Boat livery" means a business which holds any vessel for renting, leasing or chartering.

(11) Omitted.

(12) "Legal owner" is a person holding the legal title to a vessel under a conditional sale contract or as the mortgagee of a vessel.

SOURCE: §8995.2 GC, as amended by P.L. 15-54.

§69102. Operation of Unnumbered Vessels Prohibited.

Every vessel using the waters of this Territory shall be numbered except those exempted by §69103 of this Chapter. No person shall operate or be given permission to operate any vessel on such waters unless the vessel is numbered in accor-

10 GCA Chapter 69 - Territorial Boating Act

dance with this Chapter or in accordance with applicable Federal law or in accordance with a federally approved numbering system of the United States and unless (1) the certificate of number issued to such vessel is on board and in full force and effect, and (2) the identifying number set forth in the certificate of number is displayed on each side of the bow of such vessel.

SOURCE: §8995.3 GC, as amended by P.L. 15-54.

§69103. Exemption From Numbering Provisions of This Act.

A vessel shall not be required to be numbered under this Act if it is:

(1) Covered by a certificate of number in full force and effect which has been issued to it pursuant to Federal Law or a federally approved numbering system of the United States provided that such vessel shall not be used on the waters of this Territory for a period in excess of sixty (60) consecutive days.

(2) From a country other than the United States, provided that such vessel shall not be used on the waters of this Territory for a period in excess of sixty (60) consecutive days.

(3) A vessel whose owner is the United States, a state or a subdivision thereof, used exclusively in the public service and which is clearly identifiable as such.

(4) A vessel's lifeboat if the boat is used solely for lifesaving purposes. This exemption does not include dinghies, tenders, speedboats, or other types of craft carried aboard vessels and used for other than lifesaving purposes.

(5) A vessel belonging to a class of boats which has been exempted from numbering by the Department of Public Safety after said Department has found that (1) the numbering of such class will not materially aid in their identification and (2) an agency of the Federal government has a numbering system applicable to the class of vessels to which the vessel in questions belongs, or (3) the vessel would also be exempt from numbering if it were subject to the Federal law.

(6) Documented by the United States Coast Guard or a Federal agency successor thereto.

(7) When operating temporarily by virtue of evidence that a recent application for a certificate of number has been submitted.

SOURCE: §8995.4 GC.

10 GCA Chapter 69 - Territorial Boating Act

(5) "Person" means an individual, partnership, firm, corporation, association or other legal entity.

(6) "Operate" means to navigate or otherwise use a vessel.

(7) "Operator" means the person who operates or has charge of the navigation or use of a vessel.

(8) "Undocumented vessel" means a vessel which is not required to have and does not have a valid marine document issued by the United States Coast Guard or Federal agency successor thereto.

(9) "Reportable boating accident" means an accident, collision, or other casualty involving a vessel subject to this Act which results in loss of life, injury sufficient to require first aid or medical attention, or actual physical damage to property including vessels in excess of One Hundred Dollars (\$100).

(10) "Boat livery" means a business which holds any vessel for renting, leasing or chartering.

(11) Omitted.

(12) "Legal owner" is a person holding the legal title to a vessel under a conditional sale contract or as the mortgagee of a vessel.

SOURCE: §8995.2 GC, as amended by P.L. 15-54.

§69102. Operation of Unnumbered Vessels Prohibited.

Every vessel using the waters of this Territory shall be numbered except those exempted by §69103 of this Chapter. No person shall operate or be given permission to operate any vessel on such waters unless the vessel is numbered in accordance with this Chapter or in accordance with applicable Federal law or in accordance with a federally approved numbering system of the United States and unless (1) the certificate of number issued to such vessel is on board and in full force and effect, and (2) the identifying number set forth in the certificate of number is displayed on each side of the bow of such vessel.

10 GCA Chapter 69 - Territorial Boating Act

SOURCE: §8993.3 GC, as amended by P.L. 15-54.

§69103. Exemption From Numbering Provisions of This Act.

A vessel shall not be required to be numbered under this Act if it is:

(1) Covered by a certificate of number in full force and effect which has been issued to it pursuant to Federal Law or a federally approved numbering system of the United States provided that such vessel shall not be used on the waters of this Territory for a period in excess of sixty (60) consecutive days.

(2) From a country other than the United States, provided that such vessel shall not be used on the waters of this Territory for a period in excess of sixty (60) consecutive days.

(3) A vessel whose owner is the United States, a state or a subdivision thereof, used exclusively in the public service and which is clearly identifiable as such.

(4) A vessel's lifeboat if the boat is used solely for lifesaving purposes. This exemption does not include dinghies, tenders, speedboats, of other types of craft carried aboard vessels and used for other than lifesaving purposes.

(5) A vessel belonging to a class of boats which has been exempted from numbering by the Guam Police Department after said Department has found that (1) the numbering of such class will not materially aid in their identification and (2) an agency of the Federal government has a numbering system applicable to the class of vessels to which the vessel in question belongs, or (3) the vessel would also be exempt from numbering if it were subject to the Federal law.

(6) Documented by the United States Coast Guard or a Federal agency successor thereto.

(7) When operating temporarily by virtue of evidence that a recent application for a certificate of number has been submitted.

10 GCA Chapter 69 - Territorial Boating Act

SOURCE: §8995.4 GC.

§69104. Identification Number.

(a) Application. The owner of each vessel required to be numbered by this Territory shall file an application for number with the Guam Police Department on forms approved for it. Such forms shall be prepared in cooperation with the Department of Revenue and Taxation. The application shall contain the name and address of the owner and of the legal owner, if any, and the builder's hull number or any hull number of the vessel as may be required by the Department. The application shall be signed by the owners of the vessel and shall be accompanied by a fee of Forty Dollars (\$40.00). Upon receipt of the application in approved form, the Guam Police Department shall enter the same upon its records and issue a certificate of ownership to the legal owner or if none, to the owner and a certificate of number to the owner, stating the number assigned to the vessel, the name and address of the owner and such additional information as may be prescribed by regulation of the Guam Police Department. The owner shall paint on or attach to each side of the forward half of the vessel the identification number in such a manner as may be prescribed by rules and regulations of the Guam Police Department in order that it may be clearly visible. The number shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the vessel for which issued, whenever such vessel is in operation.

(b) Recording of current number before use in excess of sixty (60) days. The owner of any vessel already covered by a number in full force and effect which has been assigned to it, pursuant to the operative Federal law or a federally approved numbering system of a state of the United States, shall record the number prior to operating the vessel on the waters of this Territory in excess of the sixty (60) day period provided for in §69103 of this Chapter. Such recordation shall, upon payment of the fee

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prescribed by Subsection (a) of this Section, be in the manner prescribed by regulation of the Department of Public Safety provided, however, that no additional or substitute number shall be issued. This Subsection shall not apply if the state or principal use has been changed.

(c) Change of ownership. Should the ownership of a numbered vessel change, the existing certificate of ownership and a new application form with a fee of Forty Dollars (\$40.00) shall be filed with the Guam Police Department and a new certificate of ownership and a new certificate of number shall be issued in the same manner as provided for in the original assignment of number and the number shall be reassigned to the new owner.

(d) Conformity with Federal numbering system. The numbering system employed pursuant to this Chapter by the Guam Police Department shall be in conformity with the standard numbering system established by the Secretary of the United States Government in which the Coast Guard is operating pursuant to the Federal Board Safety Act of 1971, 46 U.S.C., §1452.

(e) Issuing agents. The Guam Police Department may issue any certificate of ownership and any certificate of number or temporary certificate of number directly or may authorize any person to act as agent for the issuing thereof. In the event that a person accepts such authorization, he may be allotted a block of numbers and certificates therefor which upon assignment and issue, in conformity with this Chapter, and with any rules and regulations of the Guam Police Department, shall be valid as if assigned and issued directly by the Guam Police Department.

(f) Numbering records to the public. All records of the Guam Police Department made or kept pursuant to this Section shall be public records.

(g) Registration period. Every certificate of number issued pursuant to this Chapter shall continue in full force

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and effect for a period of three (3) years unless sooner terminated or discontinued in accordance with the provisions of this Chapter. Certificates of number may be renewed by the owner in the same manner provided for in the initial securing of the same; provided that the fee for renewal shall be Forty Dollars (\$40.00).

(h) Expiration date. The Guam Police Department shall fix a day and a month of the year on which certificates of number due to expire during the calendar year shall lapse and no longer be of any force and effect unless renewed pursuant to this Chapter.

(i) Notice of transfer, destruction or abandonment. The owner shall furnish the Guam Police Department written notice of the transfer of all or any part of his interest in a vessel numbered in this Territory pursuant to this Section, or the destruction or abandonment of such vessel within fifteen (15) days thereof. Such transfer, destruction or abandonment shall terminate the certificate of number for such vessel except that in the case of a transfer of a part interest which does not affect the owner's right to operate such vessel, such transfer shall not terminate the certificate of number.

(j) Change of address. Any holder of a certificate of number or certificate of ownership shall notify the Guam Police Department in writing within fifteen (15) days if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the Guam Police Department with his new address.

(k) No other number on forward half. No number other than the number validly assigned to a vessel shall be painted, attached or otherwise displayed on either side of the forward half of such vessel.

(l) Provision for regulations. The Guam Police Department shall, subject to the provisions of the Administrative Adjudication Act, promulgate regulations to administer the provisions of this Section related to numbering

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applications, certificates of ownership, certificates of number, display of number, reports on change of address, destruction, abandonment, sale or transfer of ownership.

(m) Proof of ownership. The Guam Police Department shall, subject to the provisions of the Administrative Adjudication Act, promulgate rules and regulations setting forth requirements relative to establishing proof of ownership to be submitted by the owner at the time of filing initial application for a certificate of number and a certificate of ownership.

(n) Transfer to dealer.

(i) Application for a new certificate of number or payment of the fee shall not be required on transfer of a vessel to a dealer in the course of his business as is otherwise provided in this Chapter, provided that:

(1) the vessel is held and operated by the dealer only for the purpose of resale in the course of his business;

(2) the dealer has been issued a sales permit by the appropriate department or agency covering sale of such property; and

(3) the dealer shall, not later than the end of the next business day following such transfer, give written notice of purchase to the Guam Police Department upon an appropriate form provided for it.

(ii) Upon receipt of the notice of purchase referred to in Subdivision (i), the Guam Police Department shall issue a temporary certificate of number of such vessel in the name of the dealer upon payment of a fee of Twenty Dollars (\$20.00) and note the transfer on the Department's record of ownership.

(iii) The certificate of ownership bearing the endorsement of the transferrer to the dealer of a vessel registered pursuant to this Section and the certificate of number thereof shall be retained by the dealer until a transfer of the vessel by him, during such time, such certificates shall be subject to

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inspection by the Guam Police Department or other authorized agency. Upon transfer of the vessel by the dealer, the certificate of ownership shall be endorsed by the dealer and transfer further accomplished as otherwise provided in this Chapter.

SOURCE: §8995.5 GC, as amended by P.L. 15-54.

§69105. Certificate: Duration.

The certificate of ownership shall not be renewed but shall remain valid until suspended, revoked or cancelled by the Guam Police Department for cause or upon a transfer of any interest shown therein. If the transfer of the certificate of ownership is from a legal owner to the owner, then the Department shall collect a transfer fee of Twenty Dollars (\$20.00).

SOURCE: §8995.6 GC, as added by P.L. 15-54.

§69106. Acceptance of Prior Record of Title.

(a) Upon application for registration of a vessel previously registered outside Guam, the Guam Police Department shall grant full faith and credit to the currently valid certificate of title describing such vessel, the ownership thereof and liens noted thereon, issued by the jurisdiction in which the vehicle was last registered.

(b) Acceptance by the Guam Police Department of a certificate of title issued by another jurisdiction as provided in Subsection (a) of this Section, in the absence of knowledge by the Department that any such certificate is forged, fraudulent or void, shall be a sufficient determination of genuineness and regularity of such certificate and of the truth of the recitals therein, and no liability shall be incurred by any officer or employee of the Department by reason of so accepting any such certificate of title.

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(c) In the event a certificate of title issued by another jurisdiction shows any lien or encumbrance upon the vessel, then the Guam Police Department upon registering such vessel in Guam and upon issuing a certificate of ownership, shall include therein the name of such lienholder as legal owner unless documents submitted with the foreign certificate of title establish that the lien and encumbrance have been fully satisfied.

(d) In the event application is made in Guam for registration of a vessel of another jurisdiction which issues only a number and does not issue a certificate of ownership or its equivalent and in the event the Guam Police Department is not satisfied after the owner of the vessel of the existence of foreign liens thereon, then the Department may issue a certificate of number but shall withhold issuance of a Guam certificate of ownership until the applicant shall present such documents as to reasonably satisfy the Department of the applicant's ownership of the vessel.

(e) In the event the Guam Police Department refuses to grant an application for registration in Guam of the vessel previously registered in another jurisdiction, the Department shall immediately return to the applicant all documents submitted by the applicant with such application.

SOURCE: §8995.7 GC, as added by P.L. 15-54.

§69107. Government Vessels.

The registration requirements of this Chapter apply to every vessel owned by the Government or leased for a period exceeding six (6) months by the Government, except in the following particulars:

(a) The certificate of number of any such vessel issued shall not be renewed every three (3) years but shall remain valid until the certificate of ownership for such vehicle is suspended, revoked or cancelled by the Guam Police Department for cause or upon transfer of any interest in such certificate of

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ownership. Upon any change in ownership, the vessel shall be re-registered in accordance with the provisions of this Chapter relating to any vessel privately owned.

(b) The Guam Police Department may suspend, cancel, revoke or renew any permanent certificate of number made under this Section when the Department determines that it is advisable to reissue any such registration.

SOURCE: §8995.8 GC, as added by P.L. 15-54.

§69108. Assignment.

A legal owner may assign his title or interest in or to a vessel registered under this Chapter to a person other than the owner without the consent and without affecting interest of such owner. Upon receiving a certificate of ownership endorsed by the legal owner and the transfer of legal ownership, the Guam Police Department shall accordingly transfer the legal ownership and shall issue a new certificate of ownership to the new legal owner.

SOURCE: §8995.9 GC, as added by P.L. 15-54.

§69109. Suspension, Cancellation, Revocation.

The Guam Police Department may suspend, cancel or revoke the certificate of ownership or the certificate of number in any of the following events:

(a) when the Department is satisfied that such certificate of ownership or certificate of number was fraudulently obtained or erroneously issued;

(b) when the Department determines that a vessel is mechanically unfit or unsafe to be operated;

(c) when a vessel has been dismantled or wrecked;

(d) when the Department determines that the required fee has not been paid and the same is not paid upon reasonable notice and demand;

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(e) when the certificate of number or the painted number is knowingly displayed upon a vessel other than the one for which issued; and

(f) when the certificate of number could have been refused when last issued or renewed or when the Department is so authorized under any other provision of law.

Whatever the Guam Police Department, as authorized under this Chapter, cancels, suspends or revokes the certificate of ownership or the certificate of number, the owner or person in possession shall immediately return the documents so cancelled, suspended or revoked to the Department.

SOURCE: §8995.10 GC, as added by P.L. 15-54.

§69110. Abandoned Vessel Fund.

(a) There is established within the Treasury of Guam a fund to be known as the "Abandoned Vessel Fund" which shall be maintained separate and apart from any other funds within the government of Guam and independent records and account shall be maintained in connection therewith. Money in the Abandoned Vessel Fund shall be used by the Department of Parks and Recreation for the purpose of removing and disposing of all abandoned vessels found in Guam or when no abandoned vessels are found, the Fund may be used by the Department of Parks and Recreation to establish boating facilities.

(b) All fees collected pursuant to the provisions of this Chapter shall be deposited in the Abandoned Vessel Fund.

SOURCE: §8995.11 GC, as added by P.L. 15-54.

§69111. Security Interest: Validity.

A security interest in any vessel registered under this Chapter, irrespective of whether such registration was

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effected prior or subsequent to the execution of this security agreement, is not valid as against creditors or subsequent purchasers or encumbrances until the secured party or his successor or a assignee, has deposited with the Guam Police Department a copy of such security agreement with an attached certificate of a notary public stating that the same is a true and correct copy of the original, accompanied by a properly endorsed certificate of ownership to the vessel described in the security agreement that the vessel has been registered under this Chapter, or if a vessel is not so registered, by application and usual form for an original certificate of ownership, together with an application for certificate of ownership as legal owner, and upon payment of the fee as provided in this Chapter. The Department in accepting the security agreement for deposit, or in registering the secured party, his successor or his assignee as legal owner, shall not be required to examine the security agreement or determine the genuineness, regularity or legal sufficiency thereof.

SOURCE: §8995.12 GC, as added by P.L. 15-54.

§69112. Same: Notice.

When the secured party, his successor or assignee has deposited with the Department a copy of this security agreement as provided in this Chapter, such deposit constitutes constructive notice of this security agreement and its contents to creditors and subsequent purchasers or encumbrancers.

SOURCE: §8995.13 GC, as added by P.L. 15-54.

§69113. Classification and Required Equipment.

(a) Classification. Motorboats subject to the provisions of this Act shall be divided into four classes as follows:

CLASS A. Less than 16 feet in length.

CLASS 1. 16 feet or over and less than 26 feet in length.

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CLASS 2. 26 feet or over and less than 40 feet in length.

CLASS 3. 40 feet or over and not more than 65 feet in length.

(b) Motorboat lights. Every motorboat in all weathers from sunset to sunrise shall carry and exhibit the following lights when underway, and during such time no other lights which may be mistaken for those prescribed shall be exhibited:

(1) Every motorboat of Classes A and 1 shall carry the following lights:

First. A bright white light aft to show all around the horizon.

Second. A combined light in the fore part of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points ($22-1/2^{\circ}$) abaft the beam on their respective sides.

(2) Every motorboat of Classes 2 and 3 shall carry the following lights:

First. A bright white light in the fore part of the vessel as near the stem as practicable, so constructed as to show the unbroken light over an arc of the horizon of twenty points (225°) of the compass, so fixed as to throw the light ten points ($112-1/2^{\circ}$) on each side of the vessel, namely from right ahead to two points ($22-1/2^{\circ}$) abaft the beam on either side.

Second. A bright white light aft to show all around the horizon and higher than the white light forward.

Third. On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten points ($112-1/2^{\circ}$) of the compass, so fixed as to throw the light from right ahead to two points ($22-1/2^{\circ}$) abaft the beam on the starboard side. On the port side a red light so constructed as to show an unbroken light over an arc of the

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horizon of ten points ($112\text{-}1/2^{\circ}$) of the compass, so fixed as to throw the light from right ahead to two points ($22\text{-}1/2^{\circ}$) abaft the beam on the port side. The side lights shall be fitted with inboard screens so set as to prevent these lights from being seen across the bow.

(3) Motorboats of Classes A and 1 when propelled by sail alone shall exhibit the combined light prescribed by Paragraph (1) of this Subsection and a twelve point (135°) white light aft. Motorboats of Classes 2 and 3, when so propelled, shall exhibit the colored side lights, suitably screened as prescribed by Paragraph (2) of this Subsection and a twelve point (135°) white light aft.

(4) Every white light prescribed by this Section shall be of such character as to be visible at a distance of at least two (2) miles. Every colored light prescribed by this Section shall be of such character as to be visible at a distance of at least one (1) mile. The word "visible" in this Subsection, when applied to lights, shall mean visible on a dark night with clear atmosphere.

(5) When propelled by sail and machinery every motorboat shall carry the lights required by this Section for a motorboat propelled by machinery only.

(c) Light on manually propelled vessels. Manually propelled vessels shall carry, ready at hand, a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision.

(d) International lights. Any vessel may carry and exhibit the lights required by the Federal Regulations for Preventing Collisions at Sea, 1960, Federal Act of September 24, 1963 (33 USC 1051-1053) and (1061-1064) as amended, in lieu of the lights required by Subsection (b) of this Section.

(e) Lights on vessels over 65 feet and those propelled solely by wind. All other vessels over 65 feet in

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length and those propelled solely by wind effect on the sail shall display lights prescribed by Federal regulations.

(f) Whistle. Every motorboat of Class 1, 2 or 3, shall be provided with an efficient whistle or other sound producing mechanical appliance capable of producing signals required for the prevention of collisions.

(g) Bell. Every motorboat of Class 2 or 3, shall be provided with an efficient bell.

(h) Lifesaving devices. Every vessel shall carry at least one (1) U.S. Coast Guard approved lifesaving device of the sort prescribed by the regulations of the Guam Police Department for each person on board, so placed as to be readily accessible; provided that every motorboat carrying passengers for hire shall carry, so placed as to be readily accessible, at least one (1) U.S. Coast Guard approved life preserver of the sort prescribed by regulations of the Department of Public Safety for each person on board. All lifesaving devices shall be in good and serviceable condition.

(i) Fire extinguishers. Every motorboat shall be provided with such number, size and type of U.S. Coast Guard approved fire extinguishers capable of promptly and effectually extinguishing burning gasoline, as may be prescribed by the regulations of the Guam Police Department which fire extinguishers shall be at all times kept in condition for immediate and effective use and so placed as to be readily accessible.

(j) Equipment exemptions in authorized races. The provisions of Subsections (f), (g) and (i) of this Section shall not apply to motorboats while competing in any race conducted pursuant to §69121 of this Chapter or, if such boats be designed and intended solely for racing, while engaged in such navigation as is incidental to the tuning up of the boats and engines for the race.

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(k) Flame arrestor. Every motorboat shall have the carburetor or carburetors of every engine therein except outboard motors using gasoline as fuel, equipped with such efficient USCG approved flame arrestor, backfire trap, or other similar device as may be prescribed by the regulations of the Guam Police Department.

(l) Ventilation. Every such motorboat and every such vessel, except open boats as defined by the regulations of the Guam Police Department, using as fuel any liquid of a volatile nature, shall be provided with such means as may be prescribed by the regulations of the Guam Police Department for properly and efficiently ventilating the bilges of the engine and fuel tank compartments so as to remove any explosive or flammable gases.

(m) Authority for regulations. The Guam Police Department is hereby authorized to make rules and regulations required to carry out in the most effective manner all of the provisions of this Section and to modify the equipment requirements contained in this Section to the extent necessary to keep these requirements in conformity with the provisions of the Federal Navigation Laws or with the navigation rules promulgated by the United States Coast Guard and to prescribe additional equipment requirements not in conflict with Federal Navigation Laws.

(n) Pilot rules. For the operation of vessels on the waters of this Territory, the Guam Police Department is hereby authorized to establish and maintain for the operation of vessels on the waters of this Territory pilot rules in conformity with the pilot rules contained in the Federal Navigation Laws or the navigation rules promulgated by the United States Coast Guard.

(o) Prohibition against operation of improperly equipped vessel. No person shall operate or give permission for the operation of a vessel which is not equipped as required by this Act or the rules and regulations of the Guam Police Department made pursuant thereto.

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SOURCE: §8995.14 GC, as renumbered by P.L. 15-54.

§69114. Boat Liveries.

(a) Livery record. The owner of a boat livery shall cause to be kept a record of the name and address of the person or persons hiring any motorboat or vessel, the identification number thereof, and the departure date and time, and the expected time of return. The record shall be preserved for at least six (6) months.

(b) Responsibility for required equipment. Neither the owner of a boat livery nor his agent or employees shall permit any motorboat or vessel to depart from his premises unless it shall have been provided, either by the owner or renter, with the equipment required pursuant to §69113 and any rules and regulations made pursuant thereto.

SOURCE: §8995.15 GC, as renumbered by P.L. 15-54.

§69115. Muffling Devices.

The exhaust of every internal combustion engine used on any motorboat shall be effectively muffled by an efficient muffling device or system used as to muffle the noise of the exhaust in a reasonable manner. The use of cut-outs is prohibited, except for motorboats competing in a regatta or boat race approved as provided in §69121 of this Chapter, and for such motorboats while on trial runs, during a period not to exceed forty-eight (48) hours immediately preceding such regatta or race and for such motorboats while competing in official trials for speed records during a period not to exceed forty-eight (48) hours immediately following such regatta or race.

SOURCE: §8995.16 GC, as renumbered by P.L. 15-54.

conflict with the marking system prescribed by the Department of Public Safety.

(c) Violation of regulatory type markers. It shall be unlawful for a person to operate a vessel on the waters of this Territory in a manner other than that prescribed or permitted by regulatory markers.

(d) Interference with aids or markers. No person shall moor or fasten a vessel to any aid to navigation or regulatory marker except a mooring buoy and no person shall wilfully damage, tamper, remove, obstruct or interfere with any aid to navigation or regulatory marker whatsoever.

SOURCE: §8995.23 GC, as renumbered by P.L. 15-54.

§69123. Authority for Special Rules.

The Department of Public Safety is hereby authorized to make special rules and regulations with reference to the operation of vessels on any waters within the territorial limits of Guam.

SOURCE: §8995.24 GC, as renumbered by P.L. 15-54.

§69124. Comprehensive Safety and Educational Program.

The Department of Public Safety is hereby authorized to inaugurate a comprehensive boating safety and boating education program, to establish appropriate advisory committees, and to seek the cooperation of boatmen, the Federal government and other states of the United States. The Department of Public Safety may issue safety certificates to persons who complete courses in boating safety education.

SOURCE: §8995.25 GC, as renumbered by P.L. 15-54.

§69125. Owner's Civil Liability.

The owner of a vessel shall be liable for any injury or damage occasioned by the negligent operation of such vessel whether such negligence consists of a violation of the provisions of the statutes of this Territory or neglecting to observe such ordinary care in such operation as the rules of common law require. The owner shall not be liable, however, unless such vessel is being used with his or her expressed or implied consent. It shall be presumed that such vessel is being operated with the knowledge and consent of the owner, if at the time of the injury or damage, it is under control of his or her spouse, father, mother, brother, sister, son, daughter or other

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immediate member of the owner's family. Nothing contained herein shall be construed to relieve any other person from any liability which he would otherwise have, but nothing contained herein shall be construed to authorize or permit any recovery in excess of injury or damage actually incurred.

SOURCE: §8995.26 GC, as renumbered by P.L. 15-54.

§69.26 Filing of Regulations.

A copy of the rules and regulations adopted pursuant to this Act, and of any amendments thereto, shall be filed in the office of the Department of Public Safety. Rules and regulations shall be published by the Department of Public Safety in convenient form.

SOURCE: §8995.27 GC, as renumbered by P.L. 15-54.

§69127. Coordination Under Federal Laws.

(a) The Director of Public Safety shall be the territorial administrator under the Federal Boating Safety Act of 1972.

(b) The Director shall cooperate with the United States Coast Guard and other appropriate agencies of the Federal government in the enforcement of this Act and all applicable federal statutes, rules and regulations relating to boating on Guam.

SOURCE: §8995.28 GC, as renumbered by P.L. 15-54.

§69128. Enforcement.

→ (a) Authority to stop and board. Any person empowered to enforce the provisions of this Act and of any rule or regulation adopted pursuant thereto shall have the authority to stop and board any vessel subject to this Act for the purpose of inspection or determining compliance with this Act or any such rule or regulation, and is empowered to issue a summons for appearance in court or before a magistrate for all violations of this Act or of the rules and regulations prescribed thereunder. Vessels of law enforcement personnel shall be marked to identify them as designated enforcement vessels.

(b) Vessels required to cooperate. Every vessel subject to this Act if under way and upon being hailed by a designated law enforcement officer shall stop immediately and lay to, or shall maneuver in such a way as to permit such officer to come aboard.

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(c) Authorization of enforcement officers. Any person employed or elected by this Territory whose duty is to preserve the peace or to make arrest or to enforce the law is empowered to enforce the provisions of this Act. The Department of Public Safety shall be primarily responsible for enforcement of this Act and rules and regulations issued thereunder.

SOURCE: §8995.29 GC, as renumbered by P.L. 15-54.

§69129. Penalties.

(a) Any person who violates any provision of §§69102, 69104, 69113, 69115, 69117 and 69121 of this Chapter or the implementing regulations shall be guilty of a violation and shall be subject to a fine of not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00) for each such violation.

(b) Any person who violates any provision of §§69114 and 69119 of this Chapter or the implementing regulations shall be guilty of a violation and shall be subject to a fine of not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each such violation.

(c) Any person who violates any provision of §§69116, 69120 and 69122 of this Chapter or the implementing regulations shall be guilty of a petty misdemeanor.

(d) Any person convicted of reckless or negligent operation of a vessel or of operating a vessel while under the influence of intoxicating liquids, narcotic drugs, barbiturates or marijuana may, in addition to the above penalties, be prohibited by the court having jurisdiction of such violation, from operating any vessel on any waters of this Territory for a period of not more than two (2) years.

SOURCE: §8995.21 GC, as amended by P.L. 13-187; renumbered to §8995.30 by P.L. 15-54.

§69130. Severability.

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SOURCE: §8995.31 as renumbered by P.L. 15-54.

CHAPTER 70

LIFEGUARDS ON BEACH FRONT PROPERTY

- §70101. Findings
- §70102. Lifeguards. Beach Front Property.
- §70103. Rules and Regulations.
- §70104. Penalty.

§70101. Findings.

This Legislature finds that several deaths by drowning have recently occurred on beach sites on front of tourist hotels and commercial recreational property, and that qualified lifeguards on said property could have saved some of the lives lost. This Legislature therefore finds that necessary steps should be taken to reduce the hazards of death by drowning.

SOURCE: §8996 GC.

§70102. Lifeguards. Beach Front Property.

Lifeguards required on beach front property. All hotels and all other persons using beach front property commercially for recreational purposes, shall employ on such beach front property between the hours of 9:00 a.m. and 6:00 p.m. daily a full-time lifeguard, certified by the American Red Cross to be qualified for such employment.

SOURCE: §8997 GC.

§70103. Rules and Regulations.

The Director may make such rules and regulations as are necessary to implement the provisions of this Chapter.

SOURCE: §8998 GC.

§70104. Penalty.

Any person or officer of a firm or company violating the provisions of this Chapter is guilty of a petty misdemeanor.

SOURCE: §8999 GC, as amended by P.L. 13-187.

DIVISION 4

GUAM HEALTH ACT

- Chapter 80. Administration.**
81. Post-Mortem Examination Act.
82. Mentally Ill.
83. Guam Uniform Anatomical Gift Act.
84. Emergency Medical Services.

10 GCA Chapter 80 - Administration

CHAPTER 80

ADMINISTRATION

- §80101. Short Title.
- §80102. Definitions.
- §80103. Establishment.
- §80104. Powers.
- §80105. Same.
- §80106. Board of Trustees.
- §80107. Administrator.
- §80108. Other Officers.
- §80109. Employment Practices.
- §80110. Exemption from Taxation.
- §80111. Contracts and Purchases.
- §80112. Fiscal Authority; Accounting and Expenditures.
- §80113. Irreversible Renal Failure.
- §80114. Patients' Records Confidential.

§80101. Short Title.

This Division may be cited as the "Guam Health Act of 1977."

SOURCE: §49000 GC.

§80102. Definitions.

As used in this Division, unless otherwise indicated:

(a) "Board" means the Board of Trustees of Guam Memorial Hospital Authority.

(b) "Administrator" means the Administrator of Guam Memorial Hospital Authority.

(c) "Hospital" means Guam Memorial Hospital Authority.

(d) "Health Professionals" means those persons licensed or certified to practice the healing art within the territory of Guam.

SOURCE: §49001 GC.

§80103. Establishment.

There is within, and a public corporation and autonomous instrumentality of, the government of Guam called the Guam Memorial Hospital Authority.

SOURCE: §49002 GC.

CHAPTER 2

Territorial Boating Regulations
(Department of Public Safety)

- §8100. General Provisions: Title and Authority. [1.01]
- §8100.1. Same: Purpose and Scope. [1.02]
- §8100.2. Same: Interpretation. [1.03]
- §8100.3. Same: Severability. [1.04]
- §8101. Definitions of Words and Phrases. [2.01-2.43]
- §8102. Numbering of Vessels: Operation of Certain Unnumbered Vessels Prohibited. [3.01]
- §8102.1. Same: Exemption From Numbering Provisions. [3.02]
- §8102.2. Same: Numbering System. [3.03]
- §8102.3. Same: Number Display. [3.04]
- §8102.4. Same: Application for Number and Contents Requirements. [3.05]
- §8102.5. Same: Authority to Grant or Refuse Applications. [3.06]
- §8102.6. Same: Certificate of Number - Contents. [3.07]
- §8102.7. Same: Certificate of Number to Be Carried Aboard Vessel. [3.08]
- §8102.8. Same: Cancellation of Certificate and Voiding of Number. [3.09]
- §8102.9. Same: Period of Validity and Renewal of Certificate of Number. [3.10]
- §8102.10. Same: Owner Required to Report Change of Address, Ownership, Loss, Destruction or Abandonment of Vessel. [3.11]
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NOTE: Rule-making authority cited for formulation of Territorial Boating Regulations by the Department of Public Safety, §8995.23, Government Code, as amended by Public Law 15-54.

[Editor's Note: The Territorial Boating Act is found in Title IX, Chapter XVI, §§8995.1-8995.30, Government Code, as amended by Public Law 15-54.]

\$8100. General Provisions: Title and Authority.

~~These Rules and Regulations shall be called "The Rules and Regulations Governing Boating of the Department of Public Safety, Territory of Guam," or by its short title "Territorial Boating Regulations." These Rules and Regulations are promulgated under the authority of Chapter XVI, §8995.23 of the Government Code of Guam. Public Law 15-54. [1.01]~~

\$8100.1. Same: Purpose and Scope.

(a) The purpose of these Rules and Regulations is to establish rules and regulations governing vessels and their use in the waters of the territory of Guam, which will promote and attain:

- (1) the full use and enjoyment of the waters of the territory of Guam;
- (2) the safety of persons and the protection of property as related to the use of such waters:

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(3) a reasonable uniformity of laws and regulations regarding the use of such waters; and

(4) conformity with and implementation of, federal laws and requirements.

(b) These Rules and Regulations are applicable on all waters of the territory of Guam and apply to all vessels, except those specifically exempted herein, operating on or in the waters of the territory of Guam. [1.02]

§8100.2. Same: Interpretation.

If any section of these Rules and Regulations is inconsistent with any laws of the United States or any rule, regulation or standard established pursuant thereto, then the latter shall govern. The provisions of these Rules and Regulations shall be interpreted and construed in the manner best able to effectuate the general purpose of attaining uniformity in the laws of the territory of Guam, and with the laws of other states and the United States. Nothing contained in these Rules and Regulations shall be construed to limit the powers of any department or agency of this Territory. Each provision of these Rules and Regulations is also intended to be construed most liberally in the light of the purpose stated in 2 GAR §8100.1 [Section 1.02]. [1.03]

§8100.3. Same: Severability.

The provisions 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 and Regulations or the application of such remainder to other persons or property shall not be affected. [1.04]

§8101. Definitions of Words and Phrases.

(a) **General Statement.** Unless otherwise required by the context of any particular provision, the use of:

(1) any gender shall include all genders;

(2) the singular shall include the plural and the plural shall include the singular; and

(3) the following words and phrases when used in these Rules and Regulations shall, for the purpose of these Rules and Regulations, have the following meanings. [2.01]

(b) **Definitions:**

(1) "Approved." Where in these Rules and Regulations it is provided that a particular "Approved" fitting, appliance, apparatus or item of equipment, or type thereof shall be fitted or carried in a vessel or that any particular arrangement shall be "Approved," this means that it is approved by the Commandant of the U.S. Coast Guard unless otherwise stated. [2.02]

(2) "Barge" means a vessel, with no motive power of its own. [2.03]

(3) "Boat Dealer" means a person who is engaged wholly or partly in the business of selling or offering for sale, buying

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or taking in vessels for the purpose of resale or exchanging vessels, for gain or compensation. [2.04]

(4) "Boat Livery" means a person who is engaged in the business of holding out vessels for rent, lease or charter. [2.05]

(5) "Boat Manufacturer" means a person engaged wholly or partly in the business of building or assembling vessels. [2.06]

(6) "Boating Accident" means a collision, accident or other casualty involving:

(a) the death or disappearance of any person;

(b) injury causing any person to remain incapacitated for a period in excess of seventy-four (74) hours;

(c) physical damage to property in excess of One Hundred Dollars (\$100.00); or

(d) the loss or disappearance of a vessel.

A vessel shall be considered to be involved in a "boating accident" whenever the occurrence results in damage by or to the vessel or its equipment in excess of One Hundred Dollars (\$100.00); any injury causing any person to remain incapacitated for a period in excess of seventy-two (72) hours or loss of life to any person or in the disappearance of any person resulting from the accident under circumstances which indicate the possibility of death or injury; or the loss or disappearance of the vessel other than by theft.

The term "boating accident" includes but is not limited to damage, loss of life or injury to any person or object on board or being towed, pushed or otherwise connected to a vessel or to persons or property caused by wake, wash or waves created by a moving vessel, capsizing, foundering, flooding, fire, explosion, burns, scalds, falls overboard or on board and other injuries to persons even though no damage to the vessel or its equipment results. [2.07]

(7) "Certificate" means Certificate of Numbers as explained in 2 GAR §§8102-8102.24 [Part III] of these Rules and Regulations. [2.08]

(8) "Coast Guard" means the Coast Guard of the United States or its successor agency. [2.09]

(9) "Commercial Fishing Motorboat" means a motorboat utilized for the taking of fish for profit or gain or as a means of livelihood. [2.10]

(10) "Department" means the Department of Public Safety, territory of Guam. [2.11]

(11) "Director" means the Director of Public Safety, or his duly authorized representatives or subordinates. [2.12]

(12) "Federal Laws and Requirements" means all statutes, rules and regulations and other laws of the United States, which may be applicable to any and all the subject matters of these Rules and Regulations. [2.13]

(13) "Foreign Built Vessel" means any vessel whose hull was constructed in a foreign country. [2.14]

(14) "Forward Half of the Vessel" shall mean any portion of the vessel forward of a point equidistant from the stem and stern of the vessel. [2.15]

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(15) "High Seas" means as used in 2 GAR §8104.1 and §§8105-8105.17, [Section 5.02 "Lights," and Part VI "Pilot Rules and Rules of the Road" of these Rules and Regulations], the following:

a. Those waters outside the reefs of the territory of Guam.

b. Other. At all buoyed entrances from seaward to bays, sounds, rivers or other estuaries for which specific lines are not described in this Section, the waters outside of a line approximately parallel with the general trend of the shore, drawn through the outermost buoy or other aid to navigation of any system of aids. [2.16]

(16) "Inland Waters" means as used in §8104.1 and 2 GAR §§8105-8105.17, [Section 5.02 "Lights" and Part VI "Pilot Rules and Rules of the Road" of these Rules and Regulations], the waters inshore of the lines described in 2 GAR §8101(b)(15) [Section 2.16 of these Rules and Regulations]. [2.17]

(17) "Length" means, when applied to vessels in these Rules and Regulations, the measurement of a vessel from end to end over the deck. It is a straight line measurement of the overall length from the foremost part of the vessel measured parallel to the centerline. Bowsprits, bumpkins, rudders, motor brackets and similar fittings or attachments or sheer are not to be included in the measurement. "Sheer" is the longitudinal upward curve of the deck, gunwales and lines of a vessel, when viewed from the side.

In the case of a vessel of an open type or with cockpit, the measurement is taken between the foremost and aftermost extremities of the hull exclusive of sheer.

In vessels having more than one (1) deck, it is the length measured from the foremost part of the bow to the aftermost part at the stern exclusive of sheer. [2.18]

(18) "Lienholder" means a person holding a security interest in a vessel. [2.19]

(19) "Lifeboat" means a boat carried aboard a vessel and used solely for lifesaving purposes, but not including dinghies, tenders, speedboats or other types of craft carried aboard a vessel and used for other than lifesaving purposes. [2.20]

(20) "Livery Boat" means a vessel which is held out for renting, leasing or chartering by a person who is engaged in the business of renting, leasing or chartering vessels. [2.21]

(21) "Machinery" means all internal combustion engines located within the vessel and all motor or mechanical devices capable of propelling vessels. [2.22]

(22) "Motorboat" means any vessel sixty-five (65) feet in length or less which is equipped with propulsion machinery including steam. This term includes a vessel temporarily or permanently equipped with a motor. [2.23]

(23) "Motor Vessel" means any vessel more than sixty-five (65) feet in length, which is propelled by machinery other than steam. [2.24]

(24) "Number," "Numbering" and "Certificate of Number" are the equivalents of the terms "register," "registration" and "certificate of registration." [2.25]

(25) "Operate" means to navigate or otherwise use a vessel on or in the waters of the territory of Guam. [2.26]

(26) "Operator" means a person who operates or who has charge of the navigation or use of a vessel. [2.27]

(27) "Owner" means a person, other than a lienholder, having the property in or title to a vessel. The term includes a person entitled to the use and possession of a vessel subject to a security interest in another person, but excludes a lessee under a lease not intended as security. [2.28]

(28) "Passenger" means every person other than the master and members of the crew or other persons employed or engaged in any capacity on board a vessel in the business of that vessel. In the case of a vessel on an international voyage a child under one (1) year of age is not counted as a passenger. [2.29]

(29) "Person" means an individual, partnership, firm, corporation, association or other legal entity including the servant, employee, agent or representative of any of the foregoing. [2.30]

(30) "Power-driven vessel" means any vessel propelled by machinery. [2.31]

(31) "State of principal use" means the state on whose waters a vessel is used or to be used most during a calendar year. [2.32]

(32) "Registration Stickers" means a pair of stickers, plates, tabs or other device awarded by the Department with Certificates of Number and renewals thereof to be affixed to the vessel to indicate that the Certificate of Number is current and valid. [2.33]

(33) "Rules and Regulations" means the rules and regulations governing boating of the Department of Public Safety, territory of Guam. [2.34]

(34) "Rules of the Road" means the federal statutory and regulatory rules governing navigation of vessels and any amendments thereto. These Rules are also published by the U.S. Coast Guard in pamphlet form (Rules of the Roads-International Inland (CG-169)). [2.35]

(35) "Sailing vessel" means any vessel propelled by sail only. For the purpose of 2 GAR §8104.1 and §§8105-8105.17 [Section 5.02 "Lights" and Part VI "Pilot Rules and Rules of the Road" of these Rules and Regulations], except where the context otherwise requires, every power-driven vessel which is under sail and not under power is to be considered a sailing vessel, and every vessel under power, whether under sail or not, is to be considered a power-driven vessel. [2.36]

(36) "Security Interest" means an interest in a vessel reserved or created by agreement and which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended for security. A security interest is "perfected" when it is valid against third parties generally, subject only to specific statutory exceptions. [2.37]

(37) "Territory" means the territory of Guam. [2.38]

(38) "Underway" means the vessel is not at anchor, aground or made fast to shore. [2.39]

(39) "Undocumented vessel" means any vessel which does not have a valid marine document issued by the Coast Guard or any federal agency successor thereto pursuant to appropriate federal laws and requirements. [2.40]

(40) "Vessel" means all description of watercraft, used or capable of being used as a means of transportation on or in the water. [2.41]

(41) "Vessel Carrying Passengers for Hire" means any vessel, which is held for use for the carriage of any person or persons by such vessel for a valuable consideration, whether directly or indirectly flowing to the owner, charterer, operator, agent or any person who has a lien on the vessel. [2.42]

(42) "Waters of the Territory of Guam" means any waters within the jurisdiction of the territory of Guam, the marginal seas adjacent to the territory of Guam, and the high seas when navigated as part of a journey or ride to or from the shores of the territory of Guam. [2.43]

§8102. Numbering of Vessels: Operation of Certain Unnumbered Vessels Prohibited.

Every undocumented vessel on the waters of the territory of Guam, except those expressly exempted as provided in 2 GAR §8102.1 [Section 3.02] shall be numbered. No person shall place, operate or give permission for the placement or operation of any undocumented vessel on the waters of the territory of Guam unless the vessel is numbered, in accordance with 2 GAR §§8102-8102.24, [Part III] except as provided for in 2 GAR §8102.1 [Section 3.02] of this Part, and unless:

(a) the certificate of number awarded to such vessel is in full force and effect; and

(b) the identifying number set forth in the Certificate of Number is displayed on each side of the forward half of such vessel. [3.01]

§8102.1. Same: Exemption From Numbering Provisions.

(a) A vessel shall not be required to be numbered under this Part if it is any of the following:

(1) A vessel which has a valid marine document issued by the United States Coast Guard or any federal agency successor thereto.

(2) When a vessel is actually numbered in another State of principal use, it shall be considered as in compliance with the numbering system requirements of this State in which it is temporarily being used.

(3) When a vessel is removed to this State as a new State of principal use, a number awarded by any other State shall be recognized as valid for a period of sixty (60) days before numbering is required by the State.

(4) A vessel from a country other than the United States provided the vessel has not been on the waters of the territory of Guam during the current calendar year for a period in excess of ninety (90) days.

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(5) A vessel whose owner is the United States, used exclusively in the public service and which is clearly identifiable as such.

(6) A vessel's lifeboat if the boat is used solely for lifesaving purposes. This exemption does not include craft carried aboard a vessel and used for other than lifesaving purposes.

(7) A vessel belonging to a class of boats which has been exempted from numbering by the Department after said agency has found that the numbering of vessels of such class will not materially aid in their identification; and, if any agency of the Federal Government has a numbering system applicable to the class of vessels to which the boat in question belongs, after the Department has further found that the vessel would also be exempted from numbering if it were subject to federal law.

(8) A vessel manually propelled.

(9) A vessel eight (8) feet or less in length propelled solely by sail.

(10) A motorboat used exclusively for racing.

(11) A vessel operating under valid temporary certificate of Number.

(b) Nothing in this Section shall prohibit the numbering of any undocumented vessel hereunder upon request by the owner even though such vessel is exempted from the numbering requirements of this Part. [3.02]

§8102.2. Same: Numbering System.

(a) In the event that an agency of the United States shall have in force an overall system of identification numbering for vessels within the United States, the numbering system employed pursuant to this Part by the Department shall be in conformity therewith.

(b) The vessel identification numbers issued pursuant to these Rules and Regulations shall consist of three (3) parts. The first part shall consist of the capital letters GM identifying the territory of Guam as the state of principal use. The second part shall consist of not more than four (4) arabic numerals. The third part shall consist of not more than two (2) capital letters. The last two (2) parts furnish individual vessel identification. Each part will be separated from the other by hyphens or equivalent spaces. For example: GM-1240-AD: GM-124-AA: GM-1240-AD. The hyphen or space shall be equal to the width of any letter except "I" or any numeral except "1."

(c) Since the letters "I," "O" and "Q" may be mistaken for arabic numerals, all letter sequences using "I," "O" and "Q" shall be omitted. Objectionable words formed by the use of two (2) or three (3) letters will not be used. [3.03]

§8102.3. Same: Number Display.

(a) The identification number awarded to any vessel as indicated in the Certificate of Number shall be painted on, attached

to or otherwise permanently displayed on each side of the bow (i.e. the forward half of the hull) or on the permanent superstructure located on the forward half of the hull which is as nearly vertical as possible where such number may be easily observed, provide maximum opportunity for identification, or, when due to vessel configuration the above will not provide ready identification, on a bracket or fixture firmly attached to the forward half of the vessel. The number shall not be placed on the obscured underside of a flared bow where the angle is such that the numbers cannot be easily seen from another vessel or ashore. The numerals and letters shall read from left to right, shall be in block characters of good proportion and must measure not less than three (3) full inches from top to bottom. The phrase "block characters of good proportion" shall mean that the numerals and letters are vertical, not slanted, and of a plain style, not script or of varying thickness and preferably without border, trim, outlining or shading. Border, trim outlining or shading of character shall be disregarded in determining height of the character, or its style or color contrast. The numerals and letters shall be of one (1) solid exclusive of any colored border, trim, outlining or shading which will form a good contrast with the color of the background and so maintained as to be clearly visible and legible. The phrase "contrast with the color of the background" shall mean that the numerals and letters in the number will be of such a different color from that of the background as to be distinctly visible and legible. As used in this Section, background shall mean that portion of the hull or superstructure, or a specially provided backing plate, upon which the numbers are placed, but shall not include any border, trim, outlining or shading of the numerals or letters. The test of legibility and for the determination of adequacy of contrast is the ability to read the letters and numbers at approximately 100-foot distance.

(b) No numerals, letters or devices other than those used in connection with the territorial identification numbers awarded to a vessel shall be carried on the forward half of such vessel and no devices which might interfere with the ready identification of the vessel by its Territory number shall be carried on any part of the vessel.

(c) No identification numbers other than those awarded to a vessel as indicated in a valid Certificate of Number that is in full force and effect shall be displayed on the forward half of any undocumented vessel. Any other previously awarded number or numbers awarded in a Certificate of Number that has expired or been cancelled or withdrawn shall be covered or removed. [3.04]

§8102.4. Same: Application for Number and Contents Requirements.

(a) The application for a Certificate of Number shall be made by the owner to the Department or any agency authorized by the Department in accordance with procedure prescribed by the Department on the form it prescribes and shall contain:

(1) The name, residence and mailing address of the owner.

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- (2) Date of birth of owner.
- (3) Present citizenship of owner.
- (4) State in which vessel is principally used.
- (5) Location where vessel is principally kept.
- (6) Present State or Coast Guard number on vessel, if any.
- (7) Date vessel entered Guam, if numbered in another State.
- (8) Date vessel was first operated by applicant.
- (9) A description of the vessel including, but not limited to the following so far as it exists: Hull material (wood, steel, aluminum, plastic, other); Type of propulsion (outboard, inboard, inboard-outboard, sail, other); Manufacturer's rated horsepower; Type of fuel (gas, diesel, other), length of vessel, make, model, type, builder, year built and country in which built.
- (10) The names and addresses of any lienholders in the order of their priority.
- (11) Statement as to use (pleasure, livery, government, youth group, dealer, manufacturer, commercial fishing, charter fishing, carrying passengers for hire, commercial, other).
- (12) Builder's Serial (Hull) Number. Where there is no builder's hull number on the vessel, or where a builder's hull number thereon has been destroyed or obliterated, the application shall so state.
- (13) Any further information the Department reasonably requires to identify the vessel and to enable it to determine whether the owner is entitled to a Certificate of Number and the existence or nonexistence of security interests in the vessel or for use of federal, other state or local agencies.
- (14) A certification of ownership by the applicant.
- (15) Signature of owner.

(b) If the application refers to a vessel purchased from or through a boat dealer, it shall contain the name and address of any lienholder holding a security interest created or reserved at the time of the sale and the date of his security agreement and be signed by the boat dealer as well as the owner, and the boat dealer shall promptly mail or deliver the application to the Department.

(c) Every initial application for a Certificate of Number shall be accompanied by:

- (1) Appropriate evidence establishing proof of ownership of the vessel by the applicant. Proof of such ownership shall be established for the purposes of this Section by one of the following:
 - a. Certificate of Sale signed by the seller, showing the name and address of the seller, name and address of the purchaser, the location and date of sale and description of the vessel.
 - b. A properly endorsed document indicating title of, if the vessel has been numbered and issued a title by another state or country.

c. Where neither "a" nor "b" above is appropriate, an affidavit executed by the applicant fully setting forth the facts to support applicant's claim of ownership in the vessel.

d. The Department, if not satisfied with the evidence submitted as proof of ownership, may require additional information and documents, including any additional statements under oath to establish such proof of ownership.

(2) A statement under oath or the certificate of a person authorized by the Department that the builder's hull number, if any, of the vessel has been inspected and found to conform to the description given in the application, or any other proof of the identity of the vessel the Department reasonably requires.

(d) All requirements governing the application for Certificate of Number shall apply to livery (rental) boats, except that the description of the motor, if any, and type of fuel need not be completed on the application in every case where the engine is not rented as part of the boat.

(e) Application for Certificate of Number for dealer's or manufacturer's vessels shall not require a description of the vessel, since the number issued may be transferred from one vessel to another. In lieu of the description the word "manufacturer" or "dealer," whichever is appropriate, will be plainly indicated on the application.

(f) The Department shall require any person applying for a Certificate of Number pertaining to a foreign built vessel to furnish evidence of payment of custom duties upon reasonable belief that any United States Customs duty pertaining to the vessel has not been paid.

(g) A person applying for award of a Certificate of Number for a vessel that is presumptively five (5) net tons or more, thirty-two (32) feet in length, eight (8) feet in beam and 2.5 feet in depth, or greater) and to be used in coasting trade or commercial fishing shall be granted a temporary Certificate of Number valid for thirty (30) days. The applicant shall be notified of the necessity for having his vessel measured. If, on admeasurement, any such vessel is found to be less than five (5) net tons, a Certificate of Number shall be awarded. If any such vessel is found to be five (5) net tons or over the temporary certificate shall be cancelled and notice of such action by the Department shall be sent to the Coast Guard. An application for any such vessel of five (5) net tons or over shall not be accepted and notice of such action by the Department shall be sent to the Coast Guard.

(h) An application for a Certificate of Number pertaining to a foreign built vessel or a vessel owned by a person not a citizen of the United States and to be used in coasting trade or commercial fishing shall not be accepted and notice of such action by the Department shall be sent to the Coast Guard.

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(i) ~~An application for~~ award of a Certificate of Number pertaining to a vessel previously owned in whole or in part by a citizen of the United States and purchased by a person not a citizen of the United States shall be accompanied by evidence that such transaction was approved by the United States Maritime Administration except in those instances wherein federal laws and regulations do not require such approval.

(j) The Department, upon receiving an application for registration relating to a vessel previously numbered in another state, is authorized to notify the Coast Guard or appropriate agency in the state of previous registry concerning such changes in the state of registration. [3.05]

§8102.5. Same: Authority to Grant or Refuse Applications.

(a) The Department shall examine and determine the genuineness, regularity and legality of every application for numbering of a vessel and any other application lawfully made to the Department relating to the Part and may in all cases conduct any investigation as may be deemed necessary or require additional information, and shall reject any such application if not satisfied of the genuineness, regularity or legality thereof or the truth of any statement contained therein, or for any other reason, when authorized by law.

(b) The awarding of a Certificate of Number under the provisions of this Part shall not in any way be construed that the Department is warranting or guaranteeing the title of the vessel as it appears on such Certificate. [3.06]

§8102.6. Same: Certificate of Number - Contents.

The Certificate of Number shall contain the following information:

(a) General:

- (1) The name and address of the owner.
- (2) Manufacturer's or Builder's serial (hull) number, if any.
- (3) Hull material (wood, steel, aluminum, plastic, other).
- (4) Type of propulsion (outboard, inboard, inboard-outboard, sail, other).
- (5) Type of fuel (gasoline, diesel, other).
- (6) Length of vessel.
- (7) Make, model, type or builder of vessel and year built.
- (8) Statement as to use (pleasure, livery, dealer, manufacturer, commercial fishing, vessel carrying passengers for hire, commercial other, other).
- (9) Number awarded to vessel.
- (10) Expiration date of certificate.
- (11) Notice to the owner that he shall report within seven (7) days changes of ownership or address and destruction or abandonment of vessel.

- (12) Notice that the operator shall:
- Always carry the certificate on vessel when in use.
 - Report to the Department all boating accidents.
 - Stop and render aid or assistance if involved in a boating accident.

(13) Any other data considered necessary by the Department.

(b) The description of the vessel will be omitted from the Certificate of Number awarded to a boat dealer or boat manufacturer pursuant to 2 GAR §8102.17 [Section 3.18 of these Rules and Regulations] since the number and the Certificate of Number awarded may be transferred from one vessel to another. In lieu of the description, the word "manufacturer" or "dealer" whichever is appropriate, will be plainly marked on each certificate.

(c) The description of the motor and type of fuel will be omitted from the Certificate of Number of a livery boat in any case where the motor is not rented with the vessel. [3.07]

§8102.7. Same: Certificate of Number to be Carried Aboard Vessel.

Description. The Certificate of Number shall be of pocket size and water resistant, as prescribed by the Director and shall be available at all times for examination on the vessel for which issued, whenever such vessel is in operation. [3.08]

§8102.8. Same: Cancellation of Certificate and Voiding of Number.

(a) Except as provided in Subsection (b) below, a number awarded under this Part to a vessel shall be permanent.

(b) The Director may cancel a Certificate of Number or withdraw a number awarded to a vessel under this Part even though such action occurs before the expiration date of the certificate and whether or not such certificate is surrendered to the issuing office. Certain causes for cancellation of Certificates of Number and withdrawing of number are:

- (1) Issuance of a marine document by the Coast Guard for the same vessel.
- (2) False or fraudulent certification in an application for number.
- (3) Failure to renew a Certificate of Number within one (1) year of date of expiration.
- (4) If a vessel is lost, destroyed, abandoned, sunk or permanently removed from the territory of Guam.
- (5) Other reasons when necessary and proper to carry out the provisions of this Part. [3.09]

§8102.9. Same: Period of Validity and Renewal of Certificate of Number.

(a) The original Certificate of Number initially awarded to a vessel pursuant to this Part shall continue in full force and effect

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for a period ending one (1) year from the date of issuance of such certificate unless sooner terminated or discontinued in accordance with the provisions of these Rules and Regulations.

(b) A Certificate of Number awarded pursuant to this Part may be renewed at any time within 90-day period preceding the expiration date. The same number shall be assigned if the renewal application is received within a year after the expiration date of the Certificate of Number.

(c) A Certificate of Number renewed prior to the expiration date shall be valid for a period ending one (1) year from the date of expiration of the certificate being renewed. A Certificate of Number renewed after the date of expiration of the certificate being renewed shall be valid for a period ending one (1) year from the date of issuance if the vessel has not been on the waters of the territory of Guam at any time during the period that the Certificate of Number had expired. If the vessel was on the waters of the territory of Guam at any time during the period that the certificate had expired, the new certificate shall be valid for a period ending one (1) year from the date of the certificate being renewed.

(d) A renewal application received more than a year after the date of expiration of the Certificate of Number shall be treated in the same manner as an application for an original number.

(e) A Certificate of Number is void after the date of expiration indicated thereon. [3.10] 11:5 2-12-82

§8102.10. Same: Owner Required to Report Change of Address, Ownership, Loss, Destruction or Abandonment of Vessel.

(a) The owner of any vessel for which a Certificate of Number has been awarded pursuant to this Part shall notify the Department in writing within seven (7) days if such vessel is:

- (1) documented by the United States Coast Guard or any federal agency successor thereto; or
- (2) lost, destroyed, abandoned or sunk; or
- (3) permanently removed from the territory of Guam; or
- (4) if the owner transfers all or any part of his interest in such vessel, other than the creation of a security, to another person or persons; or
- (5) if his address no longer conforms to the address appearing in the Certificate of Number.

The holder of a Certificate of Number, as a part of the notification, shall furnish the Department with his new address, if his address no longer conforms to the address appearing on the Certificate of Number. In all such cases, except those involving only a change of address or transfer to a boat dealer as provided in 2 GAR §8102.11(b) [Section 3.12(b) of these Rules and Regulations], the written notification of the change in status of the vessel shall be accompanied by a surrender to the Department of the Certificate of Number. If the change in status is transfer of ownership, the name

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and address of the new owner shall be included in such notification. A transfer by an owner is not effective until the provisions of this Section have been complied with and the owner has delivered possession of the vessel to the transferee.

(b) The Certificate of Number for a vessel shall terminate:

(1) if the vessel is documented, lost, destroyed, abandoned, sunk, permanently removed from the territory of Guam; or

(2) if the owner transfers all or any part of his interest in the vessel, other than the creation of a security, to another person or persons. [3.11]

§8102.11. Same: New Owner Must Secure New Certificate of Number.

(a) The new owner of all or any part of the interest in any vessel for which a Certificate of Number has been awarded pursuant to this Part shall, within seven (7) days after acquiring same, make application to the Department upon forms prescribed by it, for transfer to him or revision, whichever is appropriate, of the Certificate of Number awarded to such vessel. The application shall contain, in addition to the information prescribed in 2 GAR §8102.4 [Section 3.05] for Certificate of Number applications a statement concerning the date of purchase by applicant and the name and address of the person from whom the vessel or an interest therein was acquired. The amended certificate shall if in full force and effect at the time of such transfer remain valid for so long as the original certificate would have been valid under this Part. Except as provided in Subsection (b) below, unless such application is made and fee paid within seven (7) days, such vessel shall be deemed to be without Certificate of Number and it shall be unlawful for a person to operate such vessel on the waters of the territory of Guam until a valid certificate is issued.

(b) The provisions of Subsection (a) above notwithstanding, if a boat dealer:

(1) buys a vessel for which a Certificate of Number has been awarded pursuant to this Part;

(2) procures the Certificate of Number from the owner;

(3) holds such vessel for resale; and

(4) notifies the Department of such purchase within seven (7) days after delivery to him of such vessel said boat dealer need not apply to the Department for transfer to him of the Certificate of Number awarded to such vessel. A copy of the dealer's notification of purchase to the Department shall, together with the Certificate of Number, be available at all times for examination on the vessel for which issued, whenever such vessel is in operation. The boat dealer upon transferring such vessel to another person shall promptly mail or deliver the Certificate of Number to the Department with the transferee's application for a new Certificate of Number as prescribed in Subsection (3) above.

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(c) Every boat dealer shall maintain for three (3) years a written record in the form the Director prescribes of every vessel bought, sold or exchanged by him or received by him for sale or exchange, which record shall, for the purpose of enforcing these Rules and Regulations, be open to inspection by a representative of the Department or enforcement personnel during reasonable business hours. [3.12]

§8102.12. Same: Registration Stickers.

(a) Every vessel required to be numbered in the territory of Guam shall display stickers issued by the Department to identify the vessel as currently registered.

(b) Registration stickers shall have a dominant-colored border around their edge which shall change from year to year. Effective January 1, 1973, the color of such border shall be international orange; green in 1974; red in 1975; blue in 1976, and the cycle to be repeated commencing in 1977.

(c) Registration stickers shall be securely affixed on each side of the vessel three (3) inches aft (towards the stern) of and directly in line, with the registration numbers, and shall be so maintained as to be clearly legible and visible at all times. Only current registration stickers shall be displayed. All previous year stickers will be covered or removed. [3.13]

§8102.13. Same: Lost, Stolen or Mutilated Certificate.

If any Certificate of Number or registration sticker becomes lost, destroyed, stolen, mutilated or illegible, the owner of the vessel for which the same was issued shall, within seven (7) days of the occurrence, forward to the Department a report in writing, describing the circumstances of the loss or destruction and certifying to its loss together with a completed application form as prescribed by the Department for the replacement of such Certificate of Number or registration sticker. The duplicate Certificate of Number or registration sticker issued as a result of such application will replace the certificate or registration sticker so lost or destroyed. Any Certificate of Number or registration sticker so mutilated as to be illegible shall be forwarded to the Department with the application for replacement. [3.14]

§8102.14. Same: Falsified, Unauthorized, Removed Identification Number.

(a) No person shall buy, receive, operate, possess, sell or dispose of a vessel with knowledge that an identification number or registration sticker on the vessel has been removed or falsified and with intent to avoid compliance with this Part or to conceal or misrepresent the identity of the vessel or its owner.

(b) No person shall remove or falsify a vessel identification number or registration sticker or affix to a vessel an identification number or registration sticker not authorized by law for use on it in either case to avoid compliance with this Part or to conceal or misrepresent the identity of the vessel or its owner. [3.15]

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§8102.15. Same: Improper Use of Certificate of Number.

(a) No person shall with fraudulent intent permit another not entitled thereto to use or have possession of a Certificate of Number or registration sticker.

(b) No person shall alter, forge or counterfeit a Certificate of Number or registration sticker.

(c) No person shall have possession of or use a Certificate of Number or registration sticker, knowing it to have been altered, forged or counterfeited.

(d) No person shall use a false or fictitious name or address or make a false statement or conceal any material fact, in an application for a Certificate of Number or its transfer. [3.16]

§8102.16. Same: Seizure of Documents and Stickers.

The Department is authorized to take possession of any Certificate of Number, permit or registration sticker issued by it upon expiration, revocation, cancellation or suspension thereof, or which is fictitious, or which has been unlawfully or erroneously issued. [3.17]

§8102.17. Same: Numbering of Manufacturer's and Dealer's Vessels.

(a) Numbering requirements of these Rules and Regulations shall apply to unnumbered vessels operated by boat manufacturers or boat dealers.

(b) A boat dealer or boat manufacturer, upon application to the Department upon forms prescribed by it, may obtain Certificate of Number as prescribed by the Department for use in the testing, demonstrating, delivery or transportation of unnumbered vessels that he owns upon payment of required fee for each certificate. Certificate of Number so issued may be used by the applicant in the testing, demonstrating, delivery or transportation of unnumbered vessels that he owns by temporary placement of the number assigned by such certificates on the vessel so tested, demonstrated, delivered or transported. Such temporary placement of numbers shall otherwise be as prescribed by these Rules and Regulations.

(c) The boat manufacturer or boat dealer may have the number awarded printed upon or attached to a movable sign or signs to be temporarily but firmly mounted upon or attached to an unnumbered vessel that he owns being delivered, transported, demonstrated or tested so long as the display meets the requirements of 2 GAR §8102.3 [Section 3.04].

(d) No person other than a boat dealer or boat manufacturer or a representative of a boat dealer or boat manufacturer shall display or use a boat dealer's or boat manufacturer's identifying number.

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(e) No boat dealer or boat manufacturer or representative of a boat dealer or boat manufacturer shall use a boat dealer's or boat manufacturer's number for any purpose other than the purpose described in Subsection (b) of this Section.

(f) The boat manufacturer or boat dealer may have more than one (1) Certificate of Number awarded if he is the owner of more than one (1) vessel required to be numbered: provided, however, that upon the sale of any such vessel by said boat manufacturer or boat dealer, then a number shall be applied for by the new owner in the manner provided for in these Rules and Regulations. [3.18]

§8102.18. Same: Livery Boat Number.

A person who is engaged in the business of boat livery upon application to the Department upon forms prescribed by the Department may obtain a Certificate of Number for use on vessel so rented. [3.19]

§8102.19. Same: Documented Vessels Not to be Numbered.

A vessel documented by the Coast Guard or any federal successor there shall not be numbered under the provisions of this Part. [3.20]

§8102.20. Same: Award of Certificate of Number by Department's Agents.

The Department may award any Certificate of Number directly or may authorize any person to act as agent for the awarding thereof. In the event that a person accepts such authorization, he may be assigned registration stickers, a block of numbers and certificates which, upon award in conformity with this Part, shall be valid as if awarded directly by the Department. [3.21]

§8102.21. Same: Authorization of Vessel Registration Agents.

(a) Agents authorized by the Department to conduct registration of vessels shall be known as "Vessel Registration Agents."

(b) Vessel Registration Agents shall be appointed by the Director.

(c) No compensation shall be given to Vessel Registration Agents for their services.

(d) Each Vessel Registration Agent shall be bonded under a good and sufficient bond conditioned as deemed necessary, the premium to be paid by the territory of Guam.

(e) All monies received by a Vessel Registration Agent from registration of vessels shall be kept separate from any other funds of such agent, and all such monies received shall at all times belong to the territory of Guam.

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(f) Each Vessel Registration Agent shall have and shall maintain as a condition of his appointment, the following qualifications:

- (1) An established place of business.
 - (2) Be engaged in an activity directly related to boating.
 - (3) A means of identification, which will clearly indicate to the public the name of his business, such means of identification to be required for each separate branch of such business which will be authorized to conduct registration of vessels.
- [3.22]

§8102.22. Same: Public Records.

Records of the Department made or kept pursuant to this Part shall be public records. [3.23]

§8102.23. Same: Transmittal of Statistical Information.

In accordance with any request duly made by an authorized official or agency of the United States, any information relating to numbered vessels compiled or otherwise available to the Department pursuant to this Part shall be transmitted to said official or agency of the United States. [3.24]

§8102.24. Same: Fees and Charges.

(a) The fees to be charged by the Department for registration, annual renewal, transfers, duplicate certificates and penalty charges shall be in accordance with §8995.5 of the Government Code of Guam.

(b) No fee shall be charged by the Department for registration, transfer or annual renewal relating to a vessel whose owner is the United States, the territory of Guam or a subdivision thereof.

(c) A non-profit corporation whose purposes related to promoting the ability of children to do things for themselves, to train them in boating, water safety, scout-craft and camping and to teach them patriotism, courage, self-reliance and kindred virtues shall not be required to pay the fees provided in this section relating to vessels owned and used exclusively for the purposes of such organization.

(d) The fee for each duplicate Certificate of Number or for a duplicate registration sticker is One Dollar (\$1.00).

(e) Penalty Fee:

(1) If the owner of a vessel fails to obtain a Certificate of Number as required by this Part the applicable fee plus a penalty equal to one tenth (1/10th) of such fee shall be collected from the owner for each month or fraction of a month, the owner is late in registering.

(2) If a Certificate of Number is not renewed on or before the date on which it expires the applicable annual renewal fee plus a penalty equal to one tenth (1/10th) of such fee shall be collected from the owner for each month or fraction of a month the owner is late in renewing except where the

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vessel has not been on the waters of the Territory subsequent to the expiration date.

(3) If the purchaser of any vessel fails to apply for transfer to him of the Certificate of Number relating to such vessel as required by 2 GAR §8102.11 [Section 3.12] the applicable fee plus a penalty of Twenty Cents (\$0.20) for each month or fraction thereof the owner is late in applying for such transfer shall be collected from the owner except where the vessel has not been on the waters of the Territory subsequent to the purchase.

(4) The penalty fees prescribed in this Section are in addition to any penalties imposed by a court for violations of the provisions of these Rules and Regulations.

(f) Payment of Fee Required Prior to Processing. No application for a Certificate of Number, transfer or renewal of certificate, or for a duplicate Certificate of Number of duplicate registration stickers shall be processed until the prescribed fees are paid.

(g) Fees for Furnishing Information. Individuals or firms requesting an alphabetical or numerical listing of boat owners and information concerning their boats shall be charged a fee as prescribed by the Director. [3.25]

§8103. Collisions, Accidents and Casualties.

Duty to Render Aid and Give Information:

(a) It shall be the duty of the operator of a vessel involved in a boating accident, as defined in 2 GAR §8101(b)(6) [Section 2.07], if and so far as he can do so without serious danger to his own vessel or persons aboard to render to the other persons affected by the accident, such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the accident and also to give his name, address and identification of his vessel to any person injured and to the owner of any property damaged in the accident.

(b) The duties imposed by 2 GAR §§8103-8103.10 [Part IV] shall be in addition to any duties otherwise provided by law. [4.01]

§8103.1. Same: Duty Upon Striking Unattended Vessel or Other Property.

The operator of any vessel which is involved in a boating accident, with any vessel or other property which is unattended resulting in any damage to such other vessel or property shall, so far as he can without serious danger to his own vessel or persons aboard, stop and shall then and there locate and notify the owner of such property or, of the name and address of the owner and the identification of the vessel striking the unattended vessel or property or, shall attach securely in a conspicuous place in or on such vessel or property a written notice giving such information or in the event such procedures are not feasible the operator shall as soon as possible take all reasonable steps to locate and notify the

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owner of such unattended property and give his name and address to the owner and the identification of his vessel. [4.02]

§8103.2. Same: Immediate Notice of Accident - When Required.

(a) The operator of any vessel which is involved in a boating accident as defined in 2 GAR §8101(b)(6) [Section 2.07] if the casualty results in death or injury of any person sufficient to cause reasonable belief that such injury will incapacitate such person for a period in excess of seventy-two (72) hours, or if a person disappears from on board under circumstances which suggest any possibility of their death or injury shall, as soon as possible after fulfilling the requirements of 2 GAR §8103 [Section 4.01] by the quickest means of communication, give notice of such accident to a harbor official, police officer or the nearest police station and forward a written report as required in 2 GAR §8103.3 [Section 4.04].

(b) Whenever the operator of a vessel is physically incapable of giving an immediate notice of an accident as required in Sub-section (a) and there was another occupant on the vessel at the time of the accident capable of doing so, such occupant shall make or cause to be given the notice not given by the operator. [4.03]

§8103.3. Same: Written Boating Accident Report - When Required.

(a). Whenever a boating accident results in:

- (1) loss of life or the disappearance of any person;
- (2) injury causing any person to remain incapacitated for a period in excess of seventy-two (72) hours;
- (3) actual damage to any vessel or to other property in excess of One Hundred Dollars (\$100.00), then the operator of said vessel shall submit within forty-eight (48) hours of the happening thereof, if said accident has caused the death or disappearance of any person, and within five (5) days of every other such accident, a written report to the Department on forms furnished by the Department which report must contain information as prescribed in 2 GAR §8103.6 [Section 4.07].

(b) This Section shall apply to the operator of:

- (1) any vessel involved in a boating accident in the waters of the Territory; and
- (2) any vessel required to be numbered or numbered pursuant to these Rules and Regulations and involved in a boating accident in any waters; provided that such report need not be filed with the Department where the operator is required by federal laws and requirements to report such accident to the Coast Guard.

(c) A written accident report is not required under this Section from any person who is physically incapable of making a report during the period of such incapacity.

(d) Whenever the operator is physically incapable of making a written report of a boating accident as required in this Section and

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such operator is not the owner of such vessel, then the owner of the vessel involved in such accident shall make such report not made by the operator. [4.04]

§8103.4. Same: Accident Reports Not Public Records.

(a) All written reports required in 2 GAR §8103.3 [Section 4.04] to be forwarded to the Department by the operators or owners of vessels involved in accidents shall be without prejudice to the individual so reporting and shall be for the confidential use of the Department or other state or federal agencies having use of the records for accident prevention purposes, except that the Department may disclose the identity of a person involved in an accident when such person is not otherwise known or when such person denies his presence at such accident.

(b) No written reports forwarded under the provisions of 2 GAR §8103.3 [Section 4.04] shall be used as evidence in any trial, civil or criminal, arising out of an accident except that the Department shall furnish upon demand of any party to such trial, or upon demand of any courts, a certificate showing that a specified accident report has or has not been made to the Department in compliance with law, and if such report has been made, the date, time and location of the accident, the name and address of the operator, the owner of the vessel involved, and the investigating officer. The reports may be used as evidence when necessary to prosecute a violation of 2 GAR §8103.5 [Section 4.06]. [4.05]

§8103.5. Same: False Reports.

No person shall give information in oral or written reports as required in this Part knowing or having reason to believe that such information is false. [4.06]

§8103.6. Same: Boating Accident Reports - Contents.

(a) Written reports of boating accidents submitted in accordance with 2 GAR §8103.3 [Section 4.04] shall be submitted on forms furnished by the Department and must contain the following information:

- (1) The identity of vessels involved.
- (2) The locality where the accident occurred.
- (3) The time and date when the accident occurred.
- (4) Weather and water conditions at time of accident.
- (5) The name, address, age and vessel operating experience of the operator of the reporting vessel.
- (6) The names and addresses of operators and identification of vessels or property involved.
- (7) The names and addresses of the owners of vessels or other property involved.
- (8) The names and addresses of any person or persons injured or killed.
- (9) The nature and extent of injury to any person or persons.
- (10) A description of damage to property including vessels and estimated cost of repairs.

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- (11) A description of the accident including opinions as to the cause.
- (12) The length, method of propulsion, horsepower, fuel and hull material of the reporting vessel.
- (13) Names and addresses of known witnesses.
- (14) Any other information the Department considers necessary.

(b) The Department may require any operator of a vessel involved in an accident of which a written report must be made as provided in 2 GAR §8103.3 [Section 4.04] to file supplemental written reports whenever the original report is insufficient in the opinion of the Department. [4.07]

§8103.7. Same: Transmittal of Statistical Information.

In accordance with any request duly made by an authorized official or agency of the United States, any information relating to boating accidents compiled or otherwise available to the Department pursuant to this Part shall be transmitted to said official or agency of the United States. [4.08]

§8103.8. Same: Reporting Non-Resident Boating Accidents.

The Department, upon receiving a written boating accident report, concerning a vessel numbered in another state which was involved in such accident, is authorized to forward a certified copy of such report to the boating administrator of the state wherein such vessel is numbered. [4.09]

§8103.9. Same: Investigation of Accidents by Department.

The Department may investigate any boating accident and prepare a report which will be for the confidential use of administrative and enforcement agencies only, including but not limited to agencies of the United States. [4.10]

§8103.10. Same: Boating, Accident Records - Held Five (5) Years.

Records pertaining to any boating accident shall be retained by the Department for a period of five (5) years. At the expiration of such period said records shall be destroyed except in those instances where litigation or other circumstances, considered reasonable by the Department, warrant retention for an additional period. [4.11]

§8104. Vessel Classification and Equipment Requirements:
Classification of Motorboats.

For the purposes of these Rules and Regulations, motorboats shall be divided into the following classes:

- (a) Class A. Less than sixteen (16) feet in length.
- (b) Class 1. Sixteen (16) feet or over and less than twenty-six (26) feet in length.
- (c) Class 2. Twenty-six (26) feet or over and less than forty (40) feet in length.
- (d) Class 3. Forty (40) feet or over and not more than sixty-five (65) feet in length. [5.01]

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§8104.1. Same: Lights.

(a) Every motorboat when underway on Inland Waters from sunset to sunrise shall carry and exhibit the following lights, and during such time no other light which may be mistaken for those prescribed shall be exhibited:

(1) Every motorboat of Classes A and 1 shall carry the following lights:

a. a bright white light aft to show all around the horizon.

b. a combined lantern in the fore part of the vessel and lower than the white light aft, showing green to starboard (right) and the red to port (left), so fixed as to throw the light from right ahead to two (2) points abaft the beam on their respective sides.

(2) Every motorboat of Classes 2 and 3 shall carry the following lights:

a. a bright white light in the fore part of the vessel as near the stem as practicable, so construed to show an unbroken light over an arc of the horizon of twenty (20) points of the compass, so fixed as to throw the light ten (10) points on each side of the vessel; namely, from right ahead to two (2) points abaft the beam on either side.

b. a bright white light aft to show all around the horizon and higher than the white light forward.

c. on the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten (10) points of the compass, so fixed as to throw the light from right ahead to two (2) points abaft the beam on the starboard side. On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten (10) points of the compass, so fixed as to throw the light from right ahead to two (2) points abaft the beam on the port side. The said lights shall be fitted with inboard screens of sufficient height so set as to prevent these lights from being seen across the bows.

(3) Every white light heretofore prescribed above shall be of such character as to be visible at a distance of at least two (2) miles, and every colored light shall be of such character as to be visible at a distance of one (1) mile.

(b) Every sailing vessel when propelled by sail alone shall exhibit the following lights: on the starboard side a green light, and on the port side a red light, so constructed as to show an unbroken light over an arc of the horizon from right ahead to two (2) points abaft the beam. Such vessels shall also carry at the stern a twelve (12) point white light so fixed as to throw the light six (6) points from aft to each side of the vessel; or in a small vessel if it is not possible on account of bad weather or other sufficient causes for the light to be fixed, such vessel shall carry ready at hand a lantern or flashlight to show a white light which shall be exhibited in sufficient time to avert collision. Sailboats less

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than forty (40) feet in length may carry a combined light in lieu of separate side lights.

(c) All manually propelled vessels operated between sunset and sunrise shall have ready at hand a lantern or flashlight to show a white light which shall be exhibited in sufficient time to avoid collision.

(d) All vessels at anchor between sunset and sunrise, unless anchored at a designated site, shall carry forward or where it can best be seen a bright white light to show all around the horizon and visible for one (1) mile.

(e) Any vessel Inland Waters may and those on the High Seas shall carry and exhibit the light required by the International Rules of Road (33 U.S.C. 1061-1069) in lieu of the lights prescribed above.

(f) Flashing red lights shall only be used on a vessel authorized by the Director in writing; provided, that in case of an emergency, a vessel may use a flashing red light.

(g) Flashing the rays of a searchlight or other blinding light onto the bridge, into the pilothouse or into the eyes of the operator of any vessel underway is prohibited.

(h) All floodlights or headlights which may interfere with the proper navigation of an approaching vessel shall be shielded that the lights will not blind the operator of such vessel.

(i) Marine law enforcement patrol craft may, in addition to any other lights prescribed by this Section, be equipped with a rotating (flashing) blue light to show all around the horizon. Such rotating (flashing) blue lighting shall not be used on any vessel other than an authorized marine law enforcement patrol craft. [5.02]

§8104.2. Same: Whistle or Other Sound Producing Mechanical Appliance: While Operating on Inland Waters.

(a) A motorboat shall be provided with an efficient whistle, horn or other sound producing device as set forth in Table I.

TABLE I

<u>Class of Motorboat</u>	<u>Type of Device</u>
A	None
1	Mouth, hand or power operated, whistle or other sound producing mechanical device capable of producing a blast of two (2) seconds or more duration, and audible for at least one-half (1/2) mile.

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- 2 Hand or power operated, horn or whistle capable of producing a blast of two (2) seconds or more duration, and audible for a distance of at least one (1) mile; and a bell.
- 3 Power operated, horn or whistle capable of producing a blast of two (2) seconds or more duration, and audible for a distance of at least one (1) mile; and a bell.

(b) **Racing Motorboat.** Any motorboat engaged in any race which has been approved by the Department or Coast Guard or while engaged in such navigation as is incidental to the tuning up of the outboard motorboat and engine for the race, need not carry the devices required by this Section. [5.03]

§8104.3. Same: Same: While Operating on the High Seas.

(a) A motorboat of forty (40) feet or more in length shall be provided with an efficient whistle, sounded by steam or some substitute for steam, so placed that the sound may not be intercepted by any obstruction, and with an efficient fog horn to be sounded by mechanical means and also with an efficient bell. A sailing vessel of forty (40) feet or more in length shall be provided with a similar fog horn and bell.

(b) A vessel less than forty (40) feet in length shall be provided with any device specified in Table I, 2 GAR §8104.2 [Section 5.03], capable of producing an efficient sound signal. [5.04]

§8104.4. Same: Sirens.

No vessel shall be equipped nor shall any person use upon such vessel a siren except as follows:

(a) Any vessel authorized by the Director in writing may be equipped with a siren, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet and of a type acceptable to the Department, but such siren shall not be used except when such vessel is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the operator of such vessel shall sound said siren when reasonably necessary to warn the operators of other vessels of the approach thereof or as a signal for the suspected violator to stop.

(b) Any vessel required by federal laws or regulations relating to the navigation of vessels to be equipped with an efficient whistle or siren sounded by steam or some substitute for steam, to give the necessary whistle signals required by the Rules of the Road may be equipped with and any person may use any such siren acceptable for such use. [5.05]

§8104.5. Same: Unnecessary Use of Sound Signalling Device Prohibited.

Giving unnecessary sound signals is prohibited. [5.06]

§8104.6. Same: Life Preserver and Other Lifesaving Equipment: Vessels Less Than Forty (40) Feet in Length.

(a) Carrying Passengers for Hire. A vessel less than forty (40) feet in length carrying passengers for hire shall be provided with an approved adult type life preserver for each person on board and, in addition, unless the service is such that children are never carried, there shall be provided a number of approved life preservers suitable for children equal at least ten percent (10%) of the total number of persons carried.

(b) Commercial fishing motorboats of Class A, 1 or 2 shall carry an approved life preserver, ring life buoy, buoyant vest, buoyant cushion or wood float for each person on board.

(c) Other. A vessel less than forty (40) feet in length not otherwise specifically provided for, shall carry an approved type life preserver, ring life buoy, buoyant vest, special purpose water safety buoyant device or buoyant cushion for each person on board. [5.07]

§8104.7. Same: Same: Vessels Over Forty (40) Feet and Not More Than Sixty-Five (65) Feet in Length.

(a) Carrying Passengers for Hire. A vessel over forty (40) feet and not more than sixty-five (65) feet carrying passengers for hire shall be provided with an approved adult type life preserver for each person on board and, in addition, unless the service is such that children are never carried, there shall be provided a number of approved life preservers suitable for children equal to at least ten percent (10%) of the total number of persons carried.

(b) Commercial fishing motorboats of Class 3 shall carry an approved life preserver, ring life buoy or wood float for each person on board.

(c) Other. A vessel of over forty (40) feet and not more than sixty-five (65) feet not otherwise specifically provided for, shall carry an approved life preserver or ring life buoy for each person on board. [5.09]

§8104.8. Same: Same: Vessels Over Sixty-Five (65) Feet in Length.

(a) Carrying Passengers for Hire. A vessel over sixty-five (65) feet in length carrying passengers for hire shall carry an approved adult type life preserver for each person on board and, in addition, unless the service is such that children are never carried, there shall be provided a number of approved life preservers suitable for children equal to at least ten percent (10%) of the total number of persons carried.

(b) Other. A vessel over sixty-five (65) feet in length not carrying passengers for hire shall carry an approved life preserver for each person on board. [5.10]

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§8104.9. Same: Same: Barge Carrying Passengers for Hire.

A barge carrying passengers for hire when regularly operated with any power driven vessel shall be provided with:

An approved adult type life preserver for each person on board and, in addition, unless the service is such that children are never carried, a number of approved life preservers suitable for children equal to at least ten percent (10%) of the total number of persons carried. [5.11]

§8104.10. Same: Fire Extinguishing Equipment.

Any vessel being operated on the waters of the territory of Guam shall be provided with approved fire extinguishers as prescribed in these Rules and Regulations, which shall at all times be maintained in good and serviceable condition for immediate and effective use and shall be so placed as to be readily accessible. [5.12]

§8104.11. Same: Fire Extinguishers - Definitions.

(a) "B type fire extinguisher" means a fire extinguisher system suitable for extinguishing fires involving flammable liquids, greases and so forth.

(b) "Hand portable fire extinguisher" means a fire extinguisher of either of the following sizes:

<u>Type</u>	<u>Size</u>	<u>Foam Gallons</u>	<u>Carbon Dioxide Pounds</u>	<u>Dry Chemicals Pounds</u>
B	I	1-1/4	4	2
B	II	2-1/2	15	10

(c) "Semi-portable fire extinguisher" means a fire extinguisher system of the following size or larger which is fitted with suitable hose and nozzle or other practicable means so that all portions of the space concerned may be covered.

<u>Type</u>	<u>Size</u>	<u>Foam Gallons</u>	<u>Carbon Dioxide Pounds</u>	<u>Dry Chemicals Pounds</u>
B	III	12	35	20

(d) "Fixed fire extinguisher system" means a fire extinguisher system of an approved carbon dioxide type, designed and installed in agreement with the applicable provisions of Subpart 76.15 of Subchapter H of Title 45, Code of Federal Regulations, as amended which by reference are hereby incorporated in these Rules and Regulations and made a part hereof as though fully recited herein. [5.13]

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§8104.12. Same: Fire Extinguishing Equipment: Vaporizing Liquid Type Prohibited.

A vaporizing liquid type fire extinguisher containing carbon tetrachloride or chlorobromethane or other toxic vaporizing liquids are not acceptable as equipment required by 2 GAR §8104.10 [Section 5.12 of these Rules and Regulations]. [5.14]

§8104.13. Same: Same: Markings Required.

Each hand portable fire extinguisher and semi-portable fire extinguishing system shall have permanently attached thereto an approved marine type label. [5.15]

§8104.14. Same: Same: Requirement.

(a) Class A, 1, 2 or 3 Motorboat. A Class A, 1, 2 or 3 motorboat shall carry at least the minimum number of hand portable fire extinguishers set forth below in Table II.

TABLE II

Class of Motorboat	Length, feet	Minimum number of type B-1 hand portable fire extinguishers required	
		Without fixed fire extinguishing system in machinery space	With fixed fire extinguishing system in machinery space
A	Under 16	1	0
1	16 and over, but under 26	1	0
2	26 and over, but under 40	2	1
3	40 and over, but not over 65	3	2

(1) One (1) type B-II hand portable fire extinguisher may be substituted for two (2) type B-I hand portable fire extinguishers. Exceptions: A motorboat of any of the following types is not required to carry a fire extinguisher:

a. Less than twenty-six (26) feet in length propelled by outboard motors and not carrying passengers for hire if the construction of such motorboat will not permit the entrapment of explosive or flammable gases or vapors. The intent of these Regulations is shown in the illustrations (Figures 1 and 2) on the following pages.

b. Propelled by electric motors of ten (10) horsepower or less.

c. Any motorboats engaged in any race which has been authorized by the Director or Coast Guard, or while engaged in such navigation as is incidental to the tuning up of the motorboat and engines for the race.

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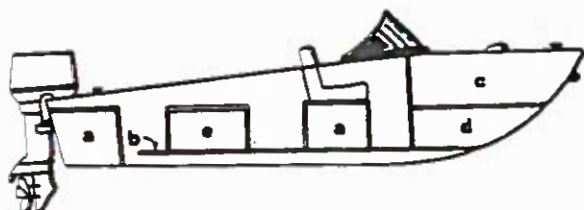


FIGURE 1

(2) Fire extinguishers are required if any one (1) or more of the following conditions exist:

- a. Closed compartment under thwarts and seats wherein portable fuel tanks may be stored.
- b. Double bottoms not sealed to the hull or which are not completely filled with flotation material.
- c. Closed living spaces.
- d. Closed storage compartments in which combustible or flammable materials are stored.
- e. Permanently installed fuel tanks.

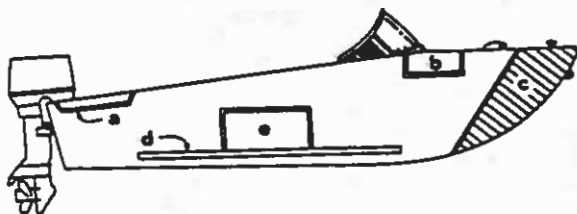


FIGURE 2

(3) The following conditions do not, in themselves, require that fire extinguishers be carried:

- a. Bait wells.
- b. Glove compartments.
- c. Buoyant flotation material.

- d. Open slatted flooring.
- e. Ice chests.

(b) Motor Vessels. A motor vessel shall carry at least the minimum number of hand portable fire extinguishers set forth below in Table III and, in addition, the following fire extinguishing equipment shall be fitted in the machinery space:

(1) One (1) type B-II hand portable fire extinguisher for each one thousand (1,000) B.H.P. of the main engine or fraction thereof. However, not more than six (6) such extinguishers need be carried. On motor vessels of over three hundred (300) gross tons, either one (1) type B-III semi-portable fire extinguishing system shall be fitted or alternatively, a fixed fire extinguishing system shall be fitted in the machinery space.

TABLE III

<u>Gross Tonnage</u>		<u>Minimum number of B-III hand portable fire extinguishers</u>
<u>Over</u>	<u>Not Over</u>	
--	50	1
50	100	2
100	500	3

(c) Barge carrying passengers:

(1) Sixty-Five (65) Feet in Length or Less. A barge sixty-five (65) feet in length or less while carrying passengers, when towed or pushed by a motor vessel, or steam vessel shall be fitted with hand portable fire extinguishers as required by Table II depending upon the length of the barge.

(2) Over Sixty-Five (65) Feet in Length. A barge of over sixty-five (65) feet in length while carrying passengers, when towed or pushed by a motorboat, motor vessel or steam vessel shall be fitted with hand portable fire extinguishers as required by Table III above, depending upon the gross tonnage of the barge. [5.16]

§8104.15 Same: Backfire Flame Control.

(a) Every gasoline engine installed in a motorboat or motor vessel after April 25, 1940, except outboard motors, shall be equipped with an efficient means of backfire flame control. Installations made before November 19, 1952, need not meet the detailed requirements of this Section and may be continued in use as long as they are in good and serviceable condition. The following are acceptable means of backfire flame control for gasoline engines:

(1) A backfire flame arrestor specifically approved by the United States Coast Guard. The flame arrestor shall be suitably secured to the air intake with flame tight connections.

(2) An engine air and fuel intake system which provides adequate protection from propagation of backfire flame to the atmosphere equivalent to that provided by an approved flame arrestor. A gasoline engine which has such an air and fuel intake system and which is to be operated without an approved

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flame arrestor shall be labeled to meet requirements of the United States Coast Guard.

(3) Any attachment to the carburetor or location of the engine air intake by means of which flames caused by engine backfire must be dispersed to the atmosphere outside the vessel in such a way that the flames will not endanger the vessel or persons on board. All attachments shall be of metallic construction with flame tight connections and firmly secured to withstand vibration, shock and engine backfire. Such installations do not require formal approval but upon installation, must meet the requirements of this Subsection. [5.17]

§8104.16. Same: Ventilation.

(a) All motorboats or motor vessels, except open boats, the construction or decking over of which is commenced after April 25, 1940, which use fuel having a flash point of 110° (degrees Fahrenheit) or less shall have at least two (2) ventilator ducts, fitted with cowls or their equivalent, for the efficient removal of explosive or inflammable gases from the bilges of every engine and fuel tank compartment. There shall be at least one (1) exhaust duct installed so as to extend from the open atmosphere to the lower portion of the bilges and at least one (1) intake duct installed so as to extend to a point at least midway to the bilge or at least below the level of the carburetor air intake. The cowls shall be located and trimmed for maximum effectiveness so as to prevent displaced fumes from being recirculated.

(b) As used in this Section, the term "open boats" means those motorboats or motor vessels with all engine and fuel tank compartments and other spaces to which explosive or flammable gases and vapors from these compartments may flow, open to the atmosphere so as to prevent the entrapment of such gases and vapors within the vessel.

(c) Where alterations are needed for existing motorboats or motor vessels to comply with this Section, such alterations shall be accomplished as soon as practicable but in any case shall be completed by June 1, 1966. [5.18]

§8104.17. Same: Liquified Petroleum Gas.

A vessel carrying passengers for hire on the waters of the territory of Guam may not use for heating, cooking or lighting, any liquified petroleum gas or any of those inflammable liquids which are prohibited by federal regulations or requirements. [5.19]

§8104.18. Same: Mufflers.

A vessel propelled by an internal combustion engine shall, when in operation, be equipped with an efficient muffler, underwater exhaust or other modern device in good working order and in constant operation capable of adequately muffling the sound of the exhaust of the engine. The use of cutouts, or open exhaust stacks is prohibited except for motorboats competing in a race or regatta approved by the Department or a federal agency or while competing

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in official trials for speed records and for such vessels while on trial runs as is incidental to the tuning up of the boats and engines.

The phrase "adequate muffling" shall mean that the motor's exhaust at all times be so muffled or suppressed as to not create excessive or unusual noise. The discharge of cooling water through the exhaust of an inboard engine shall be considered an adequate muffling device. [5-20]

§8104.19. Same: Recognition of Motorboat Examination Decals.

In order to free enforcement personnel for other inspections and duties and in recognition of the exacting requirements of the Courtesy Motorboat Examination, enforcement personnel shall not stop and board any vessel properly displaying a valid United States Coast Guard Auxiliary Courtesy Motorboat Examination decal for the purpose of determining compliance with this Part, except upon reasonable belief that any such vessel is being operated in violation of any provisions of these Rules and Regulations or other regulations or laws. [5.21]

§8105. Pilot Rules and Rules of the Road: Standard of Due Care.

Vessels shall at all times be operated with due care for the rights and safety of persons and property. [6-01]

§8105.1. Same: Rules of the Road.

(a) Persons operating vessels on Inland Waters as defined in 2 GAR §8101(b)(16) [Section 2.17 of these Rules and Regulations], shall comply with the Inland Rules of the Road (33 U.S.C. 154) and any amendments thereto, which by reference are hereby incorporated in these Rules and Regulations and made a part hereof as though fully recited herein.

(b) Persons operating vessels on the High Seas as defined in 2 GAR §8101(b)(15) [Section 2.16 of these Rules and Regulations], shall comply with the International Regulations for Preventing Collisions at Sea (33 U.S.C. 1051), commonly called the International Rules of the Road, and any amendments thereto, which by reference are hereby incorporated in these Rules and Regulations and made a part hereof as though fully recited herein.

(c) To insure the safety of their vessels and passengers the statutory rules of the road, supra, which have been enacted by Congress to prevent collisions of vessels, must be observed by operators of vessels. The following regulations, 1 through 5, outline certain specific requirements set forth in the abovementioned Rules of the Road:

(1) In narrow channels, when it is safe and practicable, every vessel shall keep to the right of the middle of the channel.

(2) When vessels are approaching each other head-on, or nearly so, each shall be operated to pass the other on the port (left) side at a distance and speed so that the wake of each will not endanger the other.

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(3) When a vessel desires to pass another traveling in the same direction, the overtaking vessel shall keep clear of the overtaken vessel and shall not pass until it is safe to do so, and then at such speed and distance so as not to endanger the overtaken vessel. The overtaken vessel shall maintain its course and speed until the overtaking vessel has safely passed. An overtaking situation shall exist whenever a vessel approaches another from any direction more than two (2) points abaft the beam of the other vessel.

(4) A crossing situation shall exist when two (2) vessels are approaching each other at right angles or obliquely so as to involve a risk of collision, other than when one vessel is overtaking another. In a crossing situation, the vessel which has the other on her own port (left) side shall hold her course and speed; and the vessel which has the other on her own starboard (right) side shall keep out of the way of the other by directing her course to starboard so as to cross the stern of the other vessel, or stop and reverse if necessary to avoid collision.

(5) Any vessel propelled by machinery whether under sail or not shall keep clear of any vessel under sail not using any propelling machinery or being propelled by oars or paddles. [6.02]

§8105.2. Same: General Prudential Rules.

In obeying and construing the rules in this Part, due regard shall be had to all dangers of navigation and collision and to any special circumstances which may render a departure from said rules necessary in order to avoid immediate danger. [6.03]

§8105.3. Same: Pamphlet - Rules of the Road.

All vessels over sixty-five (65) feet in length upon the Inland Waters of the territory of Guam shall, where practicable, carry on board and maintain for ready reference copies of the current edition of the United States Coast Guard Pamphlet CG-169, "Rules of the Road, International - Inland." [6.04]

§8105.4. Same: Rule of Good Seamanship.

Nothing in these Rules and Regulations shall exonerate any vessel, or the owner or master or crew, thereof, from the consequences of any neglect to carry lights or signals or of any neglect to keep a proper lookout, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case. [6.05]

§8105.5. Same: Distress Signals.

(a) When a vessel is in distress and requires assistance from other vessels or from the shore, the following shall be the signals to be used for display by her, either together or separately, namely:

(1) A gun or other explosive signal fired at intervals of about a minute.

(2) A continuous sounding with any fog-signaling apparatus.

(3) Rockets or shells, throwing red stars fired one at a time at short intervals.

(4) A signal made by radiotelegraphy or by any other signalling method consisting of the group in the Morse Code.

(5) A signal sent by radiotelephony consisting of the spoken word "Mayday."

(6) The International Code Signal of distress indicated by N.C.

(7) A signal consisting of a square flag having above or below it a ball or anything resembling a ball.

(8) Flames on the vessel (as from a burning tar barrel, oil barrel, etc.).

(9) A rocket parachute flare or a hand flare showing a red light.

(10) A smoke signal giving off a volume of orange-colored smoke.

(11) Standing in a conspicuous place on vessel and slowly and repeatedly raising and lowering arms outstretched to each side, preferably with bright object such as white towel in each hand.

(12) Display of a large flag, international orange in color.

(b) The use of any of the foregoing signals except for the purpose of indicating that vessel is in distress, and the use of any signals which may be confused with any of the above signals are prohibited. [6.06]

§8105.6. Same: Careless Operation.

No person shall operate any vessel in a careless or heedless manner so as to be grossly indifferent to the person or property of other persons, or at a rate of speed greater than will permit him in the exercise of reasonable care to bring the vessel to a stop within the assured clear distance ahead. [6.07]

§8105.7. Same: Reckless Operation.

No person shall operate any vessel in willful or wanton disregard for the safety of persons or property. [6.08]

§8105.8. Same: Speed Restrictions.

(a) No person shall operate a vessel on waters of the territory of Guam at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event, speed shall be so controlled as may be necessary (1) to prevent the vessel's wash or wake from causing damage or unnecessary inconvenience, or (2) to avoid colliding or otherwise damaging any vessel, person or property adjacent, on, or entering any waterway in compliance with legal requirements and the duty of all persons to use due care.

(b) Except when a special hazard exists that requires lower speed for compliance with Subsection (a) of this Section, the limits specified for areas designated in this Subsection or as directed by signs, buoys or other markers posted by the Department, shall be

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the maximum lawful speeds and no person shall operate a vessel in excess of such maximum limits; provided, that this Subsection shall not apply to persons engaged in authorized patrol, rescue or other emergency activities or in authorized regattas or marine parades. The maximum speed limit for the following areas shall be five (5) nautical miles per hour:

- (1) Small boat harbors.
- (2) Within one hundred (100) feet of any person in the water, launching ramp, dock, pier, stationary vessel or designated "SLOW" area. [6.09]

? §8105.9. Same: Persons Under the Influence of Intoxicating Liquor.

(a) No person who is under the influence of intoxicating liquor shall operate or be in actual physical control of any vessel upon waters of the territory of Guam.

(b) No owner of any vessel or any person in charge or in control of a vessel shall authorize or knowingly permit the same to be operated by any person who is under the influence of intoxicating liquor. [6.10]

§8105.10. Same: Persons Under the Influence of Drugs.

No person who is a habitual user of or under the influence of any narcotic drug or who is under the influence of any drug to a degree which renders him incapable of safely operating a vessel shall operate a vessel on the waters of the territory of Guam. The fact that any person charged with a violation of this Section is or has been entitled to use such drug under the laws of the territory of Guam shall not constitute a defense against any charge of violating this Section. [6.11]

§8105.11. Same: Incapacity of Operator.

No owner of any vessel or any person in charge or in control of a vessel shall authorize or knowingly permit the same to be operated by any person who by reason of physical or mental disability is incapable of operating such vessel under the prevailing circumstances. [6.12]

§8105.12. Same: Interference With Navigation.

No person shall operate any vessel in a manner which shall unreasonably or unnecessarily interfere with other vessels or with the free and proper navigation of the waterways of the territory of Guam. Anchoring under bridges or in restricted channels shall constitute such interference if unreasonable under the existing circumstances. [6.13]

§8105.13. Same: Overloading.

No vessel shall be loaded with persons or cargo beyond its safe carrying capacity taking into consideration weather and other existing operating conditions. [6.14]

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§8105.14. Same: Overpowering.

No vessel shall be equipped with any motor or other propulsion machinery beyond its safe power capacity taking into consideration the type and construction of such vessel and other existing operating conditions. [6.15]

§8105.15. Same: Restricted Area.

No person shall operate a vessel within a water area which has been clearly marked, in accordance with, and as authorized by, these Rules and Regulations, by buoys or some other distinguishing device as a bathing, swimming or otherwise restricted areas; provided, that this Section shall not apply in the case of an emergency, or to patrol or rescue craft. [6.16]

§8105.16. Same: Riding on Bow or Gunwales Prohibited.

No person operating a motorboat of twenty-six (26) feet or less in length shall allow any person to ride or sit on the gunwales thereof or on the decking over the bow of the vessel while underway unless such motorboat is provided with adequate guards or railing to prevent passengers from being lost overboard. Nothing in this Section shall be construed to mean that passengers or other persons aboard a motorboat cannot occupy the decking over a bow of the boat to moor the vessel or to cast off from a mooring, or for any other necessary purpose. [6.17]

§8105.17. Same: Water Skiing - Dangerous Practices Prohibited.

(a) No motorboat which shall have in tow or shall be otherwise assisting a person on water skis, aqua-plane or similar contrivance, shall be operated or propelled in or upon any waterway, unless such motorboat shall be occupied by at least two (2) competent persons, one of whom shall observe at all times the progress of the person or persons being towed; provided, that this Subsection shall not apply to motorboats used in duly authorized water ski tournaments, competitions, expositions or trials therefor, or to any motorboat equipped with an adequate rear view mirror. A rear view mirror shall be considered adequate if it permits the operator to see the person being towed when that person is within the tow boat wakes on a 75-foot line and to identify common hand signals used by the person being towed. An observer shall be considered competent if, in fact, he is at all times observing the progress of the person or persons being towed and is accurately relaying signals or other pertinent information to the vessel operator concerning the progress of the person being towed.

This Subsection shall not apply to vessels less than sixteen (16) feet in length actually operated by the person or persons being towed and so constructed as to be incapable of carrying the operator in or on the vessel.

(b) No motorboat shall have in tow or shall otherwise be assisting a person on water skis, aqua-plane or similar contrivance during the period from sunset to sunrise; provided, that this Sub-

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section shall not apply to motorboats used in duly authorized water ski tournaments, competitions, expositions or trials therefor.

(c) All motorboats having in tow or otherwise assisting a person on water skis, aqua-plane or similar contrivance, shall be operated in a careful and prudent manner and at a reasonable distance from persons or property so as not to endanger the life or property of any person.

(d) No person shall operate or manipulate any vessel, tow rope or other devices by which the direction or location of water skis, an aqua plane or similar device may be affected or controlled in such a way as to cause the water skis, aqua-plane or similar devices, or any person thereon to collide with or strike against any person or object.

The provisions of this Subsection do not apply to collisions with tow lines nor to collisions of two (2) or more persons, aqua-planes or similar devices being towed behind the same vessel, nor to collisions with ski lumps, buoys or similar objects normally used in competitive or recreational water skiing.

(e) No person shall operate any motorboat towing or otherwise assisting a person on water skis, aqua-plane or similar contrivance unless such vessel is equipped with a ladder, steps or similar means by which any person being towed can be taken from the water; provided, that this Subsection shall not apply to motorboats used in duly authorized water ski tournaments, competitions, expositions or trials therefor.

(f) No person shall operate any motorboat towing or otherwise assisting a person on water skis, aqua-plane or similar contrivance unless the person being towed is equipped with a lifesaving device; provided that this Subsection shall not apply to persons participating in authorized water ski tournaments, competitions, expositions, or trials therefor.

(g) No person who is under the influence of intoxicating liquor or who is a habitual user of or under the influence of any drug to a degree which renders him incapable of safely manipulating water skis or aqua-plane or similar contrivance shall manipulate water skis, an aqua-plane or similar contrivance on the waters of the territory of Guam.

(h) The following uniform system of hand signals shall be used by water skiers while engaged in water skiing activity.

- (1) Faster. Palm of the hand pointing upward.
- (2) Slower. Palm of the hand pointing downward.
- (3) Speed (O.K.) Correct. Arm upraised with the thumb and forefinger forming a circle.
- (4) Right Turn. Arm outstretched pointing to the right.
- (5) Left Turn. Arm outstretched pointing to the left.
- (6) Back to The Drop-Off Area. Arm at forty-five (45) degree angle from body pointing down to water and swinging.

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- (7) Cut Motor. Finger drawn across throat.
- (8) Stop. Hand up, palm forward, police traffic style.
- (9) Skier (O.K.) Unhurt After Fall. Hands clenched overhead.
- (10) Pick Me Up - Fallen Skier - Watch Out. One ski held vertical (pointing skyward) as far out of the water as practicable.

(i) No person shall manipulate any water skis, aqua-plane or similar device in a reckless or negligent manner so as to endanger any person or property. [6.18]

§8106. Waterway Marking System. Scope.

The purpose of this Part is to adopt a uniform system for marking the waters of the Territory; such rules and regulations to establish:

(a) a system of regulatory markers for use on all waters of the Territory to meet needs not provided for by the United States Coast Guard System or navigational aids; and

(b) a system of navigational aids for use on the waters of the Territory not marked by the United States Coast Guard; provided, that such rules and regulations shall not be in conflict with the markings prescribed by the United States Coast Guard. [7.01]

§8106.1. Same: Definitions.

(a) "Waterway marker" means any device designed to be placed in or near the water to convey an official message to a boat operator on matters which may affect health, safety or well being, except that such devices of the United States or an agency of the United States are excluded from the meaning of the definition.

(b) "Regulatory Marker" means a waterway marker which indicates the existence of regulatory areas, speed zones or restricted areas and which has no equivalent in the United States Coast Guard system of navigational aids.

(c) "State Aid to Navigation" means a waterway marker which is the equivalent of a United States Coast Guard aid to navigation.

(d) "Buoy" means any device designed to float which is anchored in the water and which is used to convey a message.

(e) "Sign" means any device for carrying a message which is attached to another object such as a piling, buoy structure or land itself.

(f) "Display Area" means the area on a sign or buoy needed for display of a waterway marker symbol.

(g) "Symbols" means geometric figures such as a diamond, circle, rectangle, used to convey a basic message. [7.02]

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§8106.2. Same: Waterway Markers.

Waterway markers used on the waters of the Territory shall be as follows:

(a) Territorial Aids to Navigation:

(1) A red buoy or sign shall indicate that side of a channel to be kept to the right of a vessel when entering the channel from the main water body or when proceeding upstream.

(2) A black buoy or sign shall indicate that side of a channel to be kept to the left of a vessel when entering the channel from the main body or when proceeding upstream.

(3) Buoys or signs in Subsections (1) or (2) above shall normally be used in pairs and only for the purpose of marking a clearly defined channel.

(4) A black and white vertically striped buoy or sign shall indicate the center of a navigable waterway.

(5) Territorial aids to navigation shall be numbered or lettered for identification. Red buoys and signs marking channels shall be identified with even numbers, and black buoys and signs marking channels shall be identified with odd numbers, the numbers increasing from the main water body or proceeding upstream. Buoys and signs indicating the center of a waterway will be identified by letters of the alphabet. All numbers and letters used to identify territorial aids to navigation shall be preceded by the letters "GM."

(6) Letters and numerals used with territorial aids to navigation shall be white, in block characters of good proportion and spaced in a manner which will provide maximum legibility.

(7) The shapes of Territorial aids to navigation shall be compatible with the shapes established by United States Coast Guard Regulations for the equivalent Coast Guard aids to navigation.

(8) Where reflectorized materials are used, a red reflector shall be used on a red buoy, and a green reflector on a black buoy. On black and white vertically striped buoys, reflectors, if used, shall be white.

(b) Regulatory Markers:

(1) A diamond shape of international orange with white center shall indicate danger. The nature of the danger may be indicated by words or well-known abbreviation in black letters inside the diamond shape, or above or below or above and below it on white background.

(2) A diamond shape of international orange with a cross of the same color within it against a white center shall indicate a zone from which all vessels are excluded.

(3) A circle of international orange with white center will indicate a control or restriction. The nature of the control or restriction shall be indicated by words, numerals or well-known abbreviations in black letters inside the circle. Additional explanation may be given

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above and/or below it in black letters on white background.

(c) Guide Markers. A rectangular shape of international orange with white center will indicate information, other than a danger, control or restriction, which may contribute to health, safety or well-being. The message will be presented within the rectangle in black letters.

(d) Colors and Composition. Letters or numerals used with regulatory or guide markers shall be black, in block characters of good proportion, spaced in a manner which will provide maximum legibility, and of a size which will provide the necessary degree of visibility. Where reflectorized materials are used on regulatory or guide markers, international orange reflectors only may be used to show the geometric shapes described above; any other reflectors used shall be white. [7.03]

§8106.3. Same: Authority to Place Markers.

No waterway markers shall be placed in or near the waters of the territory of Guam unless such placement is authorized by the Director, except that the provisions of this Section shall not apply to private aids to navigation under the jurisdiction of the United States Coast Guard. [7.04]

§8106.4. Same: Maintenance of Waterway Markers.

Waterway markers shall be maintained in proper condition, or be replaced or removed. [7.05]

§8106.5. Same: Display of Waterway Marker.

(a) A waterway marker may be displayed as a sign on a fixed support, as a buoy bearing a symbol on its surface, or as a sign mounted on a buoy.

(b) When a buoy is used to carry a symbol on its surface, it will be white with a band of international orange at the top and a band of international orange above the waterline as prescribed by the Director.

(c) A buoy whose sole purpose is to carry a sign above it will be marked with an international orange horizontal band at the top and a white horizontal band just above the waterline as prescribed by the Director. If the height of the buoy permits, additional white and international orange horizontal bands, not less than six (6) inches wide, shall be placed between the two (2) bands required above. No buoy except a buoy placed for that sole purpose shall carry a sign.

(d) When symbols are placed on signs, a suitable white background may be used outside the symbol. [7.06]

§8106.6. Same: Specifications for Waterway Markers.

(a) The size of a display area shall be as required by circumstances, except that no display area shall be smaller than one (1) foot in height. The size shall increase in increments of six (6)

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inches; provided, however, that the specification for increase in increments shall not apply to markers in existence prior to the adoption of these Rules and Regulations.

(b) The thickness of a symbol outline shall be one-tenth (1/10th) of the height of the display area.

(c) The outside width of the diamond, the inner diameter of the circle, and the average of the inside and outside widths of a square shall be two-thirds (2/3rds) of the display area height.

(d) The sides of the diamond shall slope at a thirty-five (35) degree angle from the vertical on a plane surface. Appropriate adjustments for curvature may be made when applied to a cylindrical surface.

(e) Waterway markers shall be made of materials which will retain, despite weather and other exposures, the characteristics essential to their basic significance, such as color, shape, legibility and position. Reflectorized materials may be used. [7.07]

§8106.7. Same: Other Waterway Marking Devices.

(a) **Mooring Buoys.** In order that mooring buoys shall not be mistaken for aid to navigation or regulatory markers, they shall be white with a blue band clearly visible above the waterline placed at least one-half (1/2) the distance between the normal waterline and the top of the buoy; provided, that the provision of this Subsection shall not apply to mooring buoys located within an officially established mooring area prior to the adoption of these Rules and Regulations.

(b) **Special Purpose Buoys.** Buoys for special purposes which have no lateral significance shall be colored as follows: White buoys shall mark anchorage areas. White buoys with green tops shall be used in connection with dredging and survey operation. White and black alternate horizontally banded buoys shall mark fish net areas. White and international orange buoys alternately banded, either horizontally or vertically shall be used for special purposes to which neither the lateral system colors nor the other special purpose colors apply. The shape of special purpose buoys has no significance. They shall not be numbered, but may be lettered.

(c) **Placement of Special Purpose Buoys.** Placement of markers such as mooring buoys and permanent race course markers shall be as authorized by the Director and such markers shall not be of a color, shape, configuration or marking which could result in their confusion with any federal or territorial aid to navigation or any territorial regulatory marker, and shall not be placed where they will obstruct navigation, cause confusion or constitute a hazard. [7.08]

§8106.8. Same: Diver's Flag.

(a) A red flag with a white diagonal running from the upper left hand corner to the lower right hand corner (from masthead to lower outside corner) and known as the "Diver's Flag" shall, when

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displayed on the water, indicate the presence of a person engaged in underwater swimming or diving in the immediate area.

(b) No person shall engage in underwater swimming or diving using self contained underwater breathing apparatus or other artificial breathing device in navigable waters of the territory of Guam without marking his position with the "Diver's Flag." No person when so engaged shall knowingly surface more than fifty (50) feet from such marker, except in cases of emergency.

(c) No person shall engage in underwater swimming or diving in a manner which shall unreasonably or unnecessarily interfere with vessels or with free and proper navigation of the waterways of the territory of Guam. Such diving or swimming in narrow or otherwise restricted channels shall constitute such interference, if unreasonable under the circumstances.

(d) Recognition of the Diver's Flag by regulation shall not be construed as conferring any rights or privileges on its users, and its presence in a given water area shall not be construed in itself as restricting the use of the water area so marked. Operators of vessels shall, however, exercise precaution commensurate with conditions indicated.

(e) The Diver's Flag shall be displayed only when diving or underwater swimming is in progress, and its display in a water area when no diving is in progress in that area shall constitute a violation of these Regulations. [7.09]

§8106.9. Same: Mooring Vessels to Buoys or Beacons Prohibited.

No person shall deface, obliterate, tear down or destroy, in whole or in part, or attempt to deface, obliterate, tear down or destroy any buoy, sign, beacon or other markers posted pursuant to these Rules and Regulations. [7.10]

§8107. Authorization Required to Hold Regatta, Marine Parade, Boat Race or Exhibition.

(a) Definition of Terms Used in This Part. "Regatta" or "Marine Parade" means an organized water event of limited duration which is conducted according to a prearranged schedule.

(b) Authorization Required; Submission of Application:

(1) Any person or organization planning to hold a regatta or marine parade which, by its nature, circumstances or location will introduce extra or unusual hazards to the safety of persons or property on the waters of the territory of Guam, shall submit an application to the Director. No person shall hold such a regatta or marine parade, unless the authorization of the Director has been secured, except that the Director's authorization is not required if prior authorization has been secured from the United States Coast Guard. Examples of conditions which are deemed to introduce extra or unusual hazards to the safety of life include, but are not limited to: an

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inherently hazardous competition the customary presence of commercial or pleasure craft in the area, any obstruction of navigable channels which may reasonably be expected to result, and the expected accumulation of spectator craft.

(2) Where such events are to be held regularly or repeatedly in a single area by an individual or organization, the Director may, subject to conditions set from time to time by the Department, grant a permit for such series of events for a fixed period of time, not to exceed one (1) year.

(3) The application shall be submitted no less than thirty (30) days prior to the start of the proposed event.

(4) The application shall include the following details:

a. Name and address of sponsoring organization.

b. Name, address and telephone number of person or persons in charge of the event.

c. Nature and purpose of the event.

d. Information as to general public interest.

e. Estimated number and type of watercraft participating in the event.

f. Estimated number and type of spectator watercraft.

g. Number of boats being furnished by sponsoring organization to patrol event.

h. Time schedule and description of events.

i. A section of a chart or scale drawing showing the boundaries of the event, various water courses or areas to be utilized by participants, officials and spectator craft.

(c) An authorization by the Director does not exempt a person holding an event from compliance with applicable federal law. [8.01]

§8108. Stolen or Lost Vessels.

(a) **Owner Reports to Department.** The owner of a vessel numbered in accordance with the laws of the territory of Guam which has been stolen, lost or embezzled may notify the Department of the theft or embezzlement, but in the event of an embezzlement the owner may make the report to the Department only after having procured the issuance of a warrant for the arrest of the person charged with such embezzlement. Every owner who has given any such notice shall notify the Department of a recovery of the vessel. [8.02]

§8109. Reporting Vessels Found.

Any person who finds a vessel which is adrift or has been lost shall report the whereabouts of such vessel to the owner, to any police officer or to the Department at the earliest possible time. [8.03]

§8110. Interstate Boat Compacts - Reciprocal Agreement and Courtesy.

(a) **Declaration of Policy:**

(1) As provided in §8995.1 Government Code, it is the policy of the Department to promote, encourage and facilitate

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the fullest possible use of its waters and improve boating safety by making and executing boat numbering, equipment or accident reporting reciprocal or proportional agreements, arrangements and declarations with other jurisdictions with respect to vessels principally used in this and such other jurisdictions, thus contributing to the economic and social development and growth of the territory of Guam.

(2) A non-resident owner of any foreign vessel may operate or permit the operation within the territory of Guam of any such vessel meeting the requirements of any reciprocity arrangement, agreements or declarations made to carry out the provisions of this Section. This Subsection shall not apply to a vessel carrying freight or passengers for hire or to a vessel leased by an owner engaged in the business of leasing vessels.

(b) Declaration of Extent of Reciprocity. In the absence of an agreement or arrangement with another jurisdiction, the Director may examine the laws and requirements of such jurisdiction and declare the extent and nature of exemptions, benefits and privileges to be extended to vessels properly numbered or equipped in such other jurisdictions, as to the owners of such vessels, which shall in the judgment of the Director, be in the best interest of the territory of Guam and the citizens thereof, and which shall be fair and equitable to the territory of Guam and the citizens thereof, and all of the same shall be determined on the basis and recognition of the benefits which accrue to the economy of the territory of Guam from the uninterrupted flow of commerce; provided, however, all such vessels shall comply with the minimum equipment requirements of the Coast Guard.

(c) Suspension of Reciprocity Agreements. Agreements, arrangements or declarations made under the authority of this Section may include provisions authorizing the Director to suspend or cancel the exemption, benefits or privileges granted thereunder to a person who violates any of the conditions or terms of such agreements, arrangements or declaration or who violates the laws of the territory of Guam relating to vessels or rules and regulations lawfully promulgated thereunder. [8.04]

§8111. Manufacturer's or Builder's Serial Number Required.

(a) If a vessel contains a permanent identification number placed thereon by the manufacturer thereof, the manufacturer's serial number shall be used as the builder's hull number. If there is no manufacturer's serial number, or if the manufacturer's serial number has been removed or obliterated or if the vessel is home-made, the Department shall, upon a prescribed application, assign a permanent identification number which shall be used as the builder's hull number for such vessel, and this assigned number shall be permanently affixed to or imprinted by the applicant, at the place and in the manner designated by the Department upon the vessel for which such builder's hull number is assigned.

(b) No vessel manufactured after January 1, 1967 may be sold or offered for sale by any person in the territory of Guam unless

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such vessel has a serial number regardless of whether assigned by the manufacturer or by the Department.

(c) Manufacturer's serial numbers for vessels shall be clearly imprinted in the stern transom, hull or other essential hull member near the stern by carving, stamping, impressing or marking with pressure, or in the case of inboard vessels on the main inside beam. In lieu of imprinting, the manufacturer's serial number may be displayed on a plate in a permanent manner. In addition to being permanent, the number shall be accessible. If the serial number is displayed in a location other than on or near the stern transom, or main inside beam, the Department must be notified by the manufacturer as to such location.

(d) No person, firm, association or corporation shall destroy, remove, alter, cover or deface the boat manufacturer's serial number or plate bearing such serial number or any serial number assigned by the Department, on any vessel.

(e) No person shall have possession of, buy, receive, sell or offer for sale, or otherwise dispose of in the territory of Guam a vessel, on which the manufacturer's or assigned serial number has been destroyed, removed, covered, altered or defaced, knowing of such destruction, removal, covering, alteration or defacement of such manufacturer's or assigned serial number. [8.05]

§8112. Report Required by Boat Builders and Boat Manufacturers.

All boat builders and boat manufacturers in the territory of Guam shall record with the Department the name and address of their business or firm and the name and address of the owner. They shall notify the Department upon termination of their business. The Department shall maintain a record of boat builders and boat manufacturers. No recording fee shall be charged. [8.06]

§8113. Report Required by Boat Dealers.

All boat dealers in the territory of Guam shall record with the Department the name and address of their place of business and the name and address of the owner. They shall notify the Department upon termination of their business. The Department shall maintain a record of boat dealers. No recording fee shall be charged. [8.07]

§8114. Boat Liveries.

(a) **Reports Required.** All boat liveries shall record with the Department the name and address of their livery, the name and address of the owner and the number and lengths of boats in use. The boat livery shall notify the Department upon termination of service. The Department shall maintain a record of all boat liveries. No recording fee shall be charged.

(b) **Livery Record.** The owner of a boat livery shall cause to be kept a record of the name and address of the person or persons hiring any vessel, the identification number thereof, and the depar-

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ture date and time and the expected time of return. The record shall be preserved for at least six (6) months.

(c) Responsibility for Required Equipment. Neither the owner of a boat livery nor his agent or employees shall permit any hired vessel to depart from his premises unless it shall have been provided, either by the owner or renter, with the equipment required pursuant to 2 GAR §§8104-8104.19 [Part V of these Rules and Regulations]. [8.08]

§8115. Department Not to Approve Products of Manufacturers.

The Department will not endorse or approve the products of any individual or firm. [8.09]

§8116. Vessel Capacity Plates: Vessels Affected.

(a) Every vessel less than twenty-six (26) feet in length designed to carry two (2) or more persons and to be propelled by machinery as its principal source of power, or designed to be manually propelled shall, if manufactured, assembled or offered for sale in the territory of Guam, have affixed permanently thereto by the manufacturer a capacity plate of a material which will retain optimum legibility despite continued exposure to weather; provided, that this Part shall not apply to canoes and sailing vessels. As used in this Part, "manufacturer" means any person who constructs or assembles a vessel or alters a vessel in such a manner as to change its weight capacity.

(b) This Part shall apply only to vessels manufactured or assembled or altered in such a manner as to change their weight capacity after January 1, 1967. [9.01]

§8116.1. Same: Information Required on Motorboat Capacity Plates.

A capacity plate shall bear the following information permanently marked thereon in such manner as to be clearly visible and legible from the position designed for, or normally intended to be occupied by, the operator of the vessel when underway:

(a) For all vessels designed for or represented by the manufacturer as being suitable for use with outboard motor:

(1) The total weight of persons, motor, gear and other articles placed aboard which the vessel is capable of carrying with safety under normal conditions.

(2) The recommended number of persons commensurate with the weight capacity of the vessel and the presumed weight in pounds of each such person. In no instance shall such presumed weight per person be less than one hundred fifty (150) pounds.

(3) Clear notice that the information appearing on the capacity plate is applicable under normal conditions and that the weight of the outboard motor and its associated equipment is considered to be part of total weight capacity.

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(4) The maximum horsepower of the motor the vessel is designed or intended to accommodate.

(b) For all other vessels to which this Part applies:

(1) The total weight of persons, gear and other articles placed aboard which the vessel is capable of carrying with safety under normal conditions.

(2) The recommended number of persons commensurate with the weight capacity of the vessel and the presumed weight in pounds of each such person. In no instance shall such presumed weight per person be less than one hundred fifty (150) pounds.

(3) Clear notice that the information appearing on the capacity plate is applicable under normal conditions. [9.02]

§8116.2. Same: Maximum Weight Capacity: Inboard and Inboard-Outdrive Boats.

(a) The maximum weight capacity marked on a boat that has one or more inboard engines or inboard-outdrive units for propulsion must not exceed W in the formula:

$$W = \frac{(\text{Maximum Displacement})}{5} - \frac{\text{Boat weight}}{5} - 4 \frac{(\text{Machinery Weight})}{5}$$

(b) For the purposes of Paragraph (a) of this Section:

(1) "Maximum Displacement" is the weight of the volume of water displaced by the boat at its maximum level immersion in calm water without water coming aboard. For the purpose of this Paragraph, a boat is level when it is transversely level and the points where the sheer intersects the stem and the stern (or transom) are equidistant above the water surface.

(2) "Boat weight" is the combined weight of the boat hull and all its permanent appurtenances, including machinery weight.

(3) "Machinery weight" is the combined weight of installed engines or motors, full fuel system and tanks, control equipment, drive units and batteries. [9.03]

§8116.3. Same: Same: Outboard Boats.

(a) The maximum weight capacity marked on a boat that is designed or intended to use one or more outboard motors for propulsion must be a number that does not exceed one-fifth (1/5th) of the difference between its maximum displacement and boat weight.

(b) For the purposes of Paragraph (a) of this Section:

(1) "Maximum Displacement" is the weight of the volume of water displaced by the boat at its maximum level immersion in calm water without water coming aboard except for water coming through one opening in the motor well with its greatest dimension not over three (3) inches for outboard motor controls or fuel lines. For the purpose of this Paragraph, a boat is level when it is transversely level and the points where the sheer intersects the stem and the stern (transom) are equidistant above the water surface.

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(2) "Boat weight" is the combined weight of the boat hull and all its permanent appurtenances. For the purposes of this Paragraph, outboard motors are not permanent appurtenances. [9.04]

§8116.4. Same: Same: Boats Without Mechanical Propulsion.

(a) The maximum weight capacity marked on a boat that is not designed or intended to have mechanical propulsion must not exceed one-fifth (1/5th) of the difference between the boat's maximum displacement and the boat weight.

(b) For the purposes of Paragraph (a) of this Section:

(1) "Maximum Displacement" is the weight of the volume of water displaced by the boat at its maximum level immersion in calm water without water coming aboard. For the purpose of this Paragraph, a boat is level when it is transversely level and the points where the sheer intersects the stem and the stern (transom) are equidistant above the water surface.

(2) "Boat weight" is the combined weight of the boat hull and all its permanent appurtenances. [9.05]

§8116.5. Same: Persons Capacity: Inboard and Inboard-Outdrive Boats.

The persons capacity marked on a boat that is designed or intended to use one or more inboard engines or inboard-outdrive units must not exceed the lesser of the maximum weight capacity determined under §16.33 for the boat or the maximum persons capacity determined by the following test in calm water:

(a) Float the boat, with all its permanent appurtenances, including installed engines, full fuel system and tanks, control equipments, drive units and batteries.

(b) Gradually add weights along one (1) outboard extremity of each passenger carrying area at the height of the seat nearest the center of that area and distributed equally forward and aft of that center in a place parallel to the floorboards, until the boat assumes the maximum list or trim, or both, without water coming aboard.

(c) Compute the persons capacity in the following formula:

$$\text{Persons capacity} = \frac{A}{0.6} \text{ where } A \text{ is the total of the weights}$$

added in Paragraph (b) of this Section. [9.06]

§8116.6. Same: Same: Outboard Boats.

The persons capacity marked on a boat that is designed or intended to use one (1) or more outboard motors for propulsion must not exceed the lesser of the maximum weight capacity determined under 2 GAR §8166.3 [9.04] for the boat or the live load capacity determined by the following test in calm water:

(a) Float the boat with all its permanent appurtenances.

(b) Add, in normal operating positions, the dry motor and control weight, battery weight and portable tank weight, if

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any. For permanently installed fuel tanks, add 6 pounds of weight for each gallon of fuel capacity.

(c) Gradually add weights along one (1) outboard extremity of each passenger carrying area, at the height of the seat nearest the center of that area and distributed equally forward and aft of that center in a plane parallel to the floorboards until the boat assumes the maximum list of both, without water coming aboard.

(d) Compute the persons capacity in the following formula:

$$\text{Persons capacity} = \frac{A}{0.6} \text{ where } A \text{ is the total of the weights}$$

added in Paragraph (c) of this Section. [9.07]

§8116.7. Same: Pontoon Boats.

(a) Boats which are dependent solely upon the buoyancy of pontoons or similar flotation devices shall determine the allowable loading by the following tests, except that the method in Paragraph

(b) below may be employed if the conditions stated herein are met. The tests shall be conducted with the maximum horsepower motor which is intended for use with the boat and with full fuel tanks and operating equipment in normal position:

(1) The transverse stability shall be tested by adding weight on the lower deck in the extreme outboard position which the arrangement permits (i.e., within one (1) foot of the edge) until the top of the pontoon on the loaded side becomes awash.

(2) The longitudinal stability shall be tested by adding weight on the lower deck evenly about a point one-fourth (1/4th) of the length of the deck from forward until the edge of the lower deck becomes immersed. This test shall be repeated at the aft end of the boat by adding weight evenly about a point one-fourth (1/4th) of the length of the deck from aft until the edge of the lower deck or the top of the motor mounting bracket becomes immersed, whichever occurs first.

(3) In a design having more than one (1) deck intended to support passengers (i.e., having railings and means of access), the tests in (a)(1) and (2) above shall also be conducted by adding weight in the specified locations on the upper deck until the conditions specified in (1) and (2) above respectively are attained.

(4) Ninety percent (90%) of the least of the weights attained in (a)(1), (2) and (3) above shall be the maximum weight for passengers.

(5) The weight carrying capacity for the craft shall then be the sum of the weight for passengers plus the weight for the maximum horsepower motor intended for use with the boat, full fuel tanks and operating equipment.

(b) An alternate method for determining the weight carrying capacity of pontoon boats may be applied to pontoon boats having only one (1) deck. The deck must be within the width of the

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pontoons, must be no more than six (6) inches above the pontoons, its length within railings must be not more than eighty percent (80%) of the pontoon length and must not overhang the pontoon, and must be capable of draining overboard freely. If the pontoon boat complies with all of these conditions, the weight carrying capacity shall not exceed one-fourth (1/4th) of the reserve buoyancy of the boat. The reserve buoyancy shall be determined by subtracting the weight of the boat, including the weight of the maximum horsepower motor used with the boat, the fuel tanks completely filled, and all of the other normal operating equipment of the boat, from the buoyant force of the boat's pontoons or similar flotation devices.

(c) **Passenger Guide.** Compute the passenger guide by the following equations, use whichever is less:

$$(1) \quad P = \frac{WC - (M + G)}{W}$$

P = passengers

WC = weight carrying capacity

M = maximum motor weight

G = gear weight

W = average weight of one passenger, but not less than one hundred fifty (150) pounds.

$$(2) \quad P = \frac{L \times B}{15}$$

L = boat length

B = maximum boat beam. [9.08]

§8116.8. Same: Maximum Horsepower.

The horsepower rating on the capacity plate for outboard motorboats shall be determined by the manufacturer and shall be the maximum horsepower of the motor which the boat can safely accommodate. Boat manufacturers shall confirm the boat's ability to safely handle the recommended horsepower by appropriate testing. Boatmen should be aware that exceeding this recommended maximum safe horsepower may introduce unsafe conditions, inefficient operation and structural damage. [9.09]

§8116.9. Same: Director May Authorize Alternative Compliance.

If any vessel required by these Rules and Regulations to have a capacity plate affixed thereto is of such design or construction as to make it impracticable or undesirable to affix such plate, the manufacturer or other person having the responsibility for affixing the plate, may represent such impracticability or undesirability to the Department in writing. Upon determination by the Department that such representation has merit and that a proper and effective substitute for the capacity plate which will serve the same purpose if feasible, the Director may authorize such alternative compliance and such alternative compliance shall thereafter be deemed compliance with the capacity plate requirements of these Rules and Regulations. [9.10]

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§8116.10. Same: Director May Exempt Certain Vessels.

The Director may exempt from the requirements of the Port vessels which it finds to be of such unconventional design or construction that the information required on capacity plates would not assist in promoting safety or is not reasonably obtainable.

Table I - Capacity Formula Work Sheet

Step 1. Compute areas of sections.

Formula: $\text{Area} = \frac{H}{12} (2 + 4b + 2c + 4d + e)$

Note: For maximum allowable height (H) in any section, check Table II.

Area A - Section quarter length forward:

$A = \frac{1}{12} [_ + 4(_) + 2(_) + 4(_) + _]$

A = _____ square feet (two decimal places).

Area B - Section amidships:

$B = \frac{1}{12} [_ + 4(_) + 2(_) + 4(_) + _]$

B = _____ square feet (two decimal places).

Area C - Section quarter length aft:

$C = \frac{1}{12} [_ + 4(_) + 2(_) + 4(_) + _]$

Area D - Section aft:

$D = \frac{1}{12} [\frac{_}{a} + 4(\frac{_}{b}) + 2(\frac{_}{c}) + 4(\frac{_}{d}) + \frac{_}{e}]$

D = _____ square feet (two decimal places).

Step 2. Compute cubic capacity.

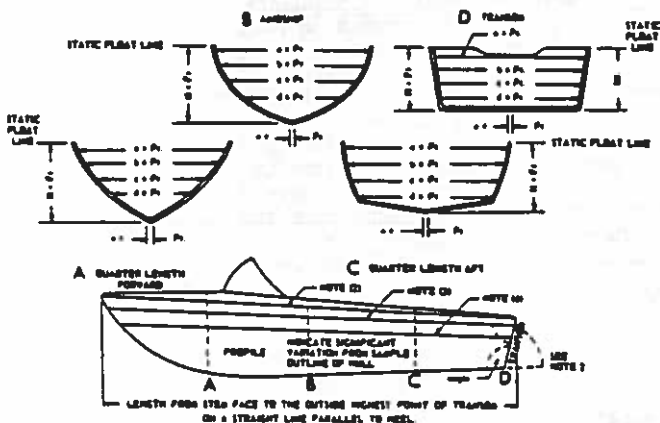
Formula:

Cubic capacity of hull = $\frac{L}{12} (4A + 2B + 4C + D) + \text{Note 1.}$

Cubic capacity = $\frac{1}{12} [4(_) + 2(_) + 4(_) + _] + _$

Cubic capacity = _____ cubic feet (one decimal place)

Note 1: The volume of integral structure aft of the transom below the static float line may be added to the calculated cubic capacity.



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- Notes: 1) The volume of integral structure aft of the transom below the static float line may be added to the calculated cubic capacity.
 2) Reference line (intersections of sheer with stem face and transom).
 3) Static float line with motor well.
 4) Static float line no motor well.

Static Float Line - Passes through the point of major leakage and is parallel with a line connecting the intersection of the sheer with the forward face of the stem and the sheer with the afterface of the transom.

Transverse Sections - (A, B and C) are taken at three (3) points obtained by dividing length (L) into four (4) equal parts.

Horizontal Breadths - (a, b, c, d and e) are secured by measuring at upper and lower points of the height (H) and at three (3) points selected by dividing (H) into four (4) equal parts below the static float line.

Measurements - Are taken outside planking or plating and recorded in feet with decimal equivalents for inches.

Table II

[Editor's Note: Although reference is made to Table II for use in determining maximum allowable height, Table II was not included within these Regulations at the time of the original publication.]

Table III - Inches to Decimal Feet

Inches:	1/8"	1/4"	3/8"	1/2"	5/8"	3/4"
Decimals:	.010'	.021'	.031'	.042'	.052'	.062'
Inches:	7/8"	1"	2"	3"	4"	5"
Decimals:	.073'	.083'	.167'	.250'	.333'	.417'
Inches:	6"	7"	8"	9"	10"	11"
Decimals:	.500'	.583'	.667'	.750'	.833'	.917'

[9.11]

§8117. Fines, Penalties, Enforcement and Records: Fines and Penalties.

Pursuant to §8995.29, Government Code, any person violating any of the provisions of these Rules and Regulations, shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned not more than one (1) year, or both; provided that, in addition to, or as a condition to the suspension of, such fines and penalties, the Court may deprive such offender of the privilege of operating any



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vessel, on the waters of the territory of Guam for a period of not more than two (2) years. [10.01]

§8117.1. Same: Enforcement Personnel.

Pursuant to §8995.28, Government Code, the Director, officers and employees of the Department designated by the Director, and every territorial officer charged with the enforcement of Territory laws hereinafter called enforcement personnel shall enforce and assist in the enforcement provisions of Title IX, Chapter 16, Government Code (Boating Law) and these Rules and Regulations. [10.02]

§8117.2. Same: Stopping Vessels for Inspection.

For the purpose of enforcing the Boating Law (Title IX, Chapter 16, Government Code, of these Rules and Regulations), any person operating or in charge of a vessel on the waters of the territory of Guam shall stop such vessel after having been requested, or signaled to do so by an enforcement officer. The operator or the person in charge of such vessel and any other person on board shall give his correct name and address, exhibit the Certificate of Number awarded for the vessel, submit to a reasonable inspection of said vessel and to a reasonable inspection and test of the equipment of such vessel. [10.03]

§8117.3. Same: Powers of Arrest.

An enforcement officer who observes any violation by any person of any of the provisions of Title IX, Chapter 16, Government Code or of these Rules and Regulations may forthwith arrest such person without a warrant. [10.04]

§8117.4. Same: Citation of Violation.

Except when required by territorial law to take immediately before a magistrate, a person arrested for a violation of any provisions of these Rules and Regulations, any person authorized to enforce the provisions of these Rules and Regulations, hereinafter referred to as an enforcement officer, upon arresting a person for violation of any provision of these Rules and Regulations shall, in the discretion of the enforcement officer as provided in §8995.28, Government Code, either:

(1) issue to the purported violator a summons or citation, warning him to appear and answer to the charge against him at a certain place and at a time within seven (7) days after such arrest; or

(2) take him without unnecessary delay before a magistrate. [10.05]

§8117.5. Same: Taking Legal Custody of the Vessel or Property.

As an incident to a lawful arrest, the arresting authority may take legal custody of the vessel or any personal property which is the subject of or related to any violation of Title IX, Chapter 16, Government Code, or of these Rules and Regulations. In the event the operator or the person in charge of the vessel refuses to obey the lawful command of an enforcement officer to navigate his vessel back to shore, the vessel may be towed at the owner's risk and

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expense and without liability to the Department for any damages which may result. The vessel or personal property shall be released according to law. [10.06]

§8117.6. Same: Attorney General.

The Attorney General may bring appropriate proceedings to enjoin the continuance of any act or omission in violation of the provisions of Title IX, Chapter 16, Government Code, or of these Rules and Regulations. [10.07]

§8117.7. Same: Records of Conviction.

The Department shall file all abstracts of records of conviction received relating to violation of the Territorial Boating Law, these Rules and Regulations, federal laws or regulations governing vessel operations, from other states or elsewhere and in connection therewith shall maintain convenient records by name of the violator in order that the individual record of each person convicted is readily ascertainable. The Department shall retain any such abstract for a period of five (5) years at which time it shall be destroyed. [10.08]

§8117.8. Same: Records Furnished to Courts.

The Department shall, upon written request of a court, furnish to the Court a certified copy of the individual record of any person. [10.09]

§8117.9. Same: Reporting Non-Resident Convictions.

The Department upon receiving a record of conviction in the territory of Guam of an operator of a vessel numbered in another state of any offense of Title IX, Chapter 16, Government Code, or of these Rules and Regulations, shall forward a certified copy of such record to the boating administrator of the state wherein such vessel is numbered. [10.10]

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CHAPTER 3

Agana Boat Basin
(Department of Parks and Recreation)

NOTE: Rule-making authority cited for formulation of regulations for the Agana Boat Basin by the Director of Parks and Recreation, §26003, Government Code.

§8200. Rules and Regulations Incorporated Herein by Reference.

The rules and regulations for Agana Boat Basin are incorporated herein by reference.

[The regulations for the Agana Boat Basin can be found in Title 16 Natural Resources and Recreation, Division VI Parks and Recreation Division (Department of Parks and Recreation), Chapter 2, Guam Administrative Rules.]