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Reglamento para Regular las Operaciones Portuarias en la Bahía de San Juan

La Autoridad de los Puertos (“AP”), de conformidad con la Sección 2.1 de la Ley Núm. 38-2017, conocida como “Ley de Procedimiento Administrativo Uniforme del Gobierno de Puerto Rico”, publica este anuncio para promulgar el Reglamento para Regular las Operaciones Portuarias en la Bahía de San Juan.

La base legal para promulgar el reglamento antes mencionado surge en virtud del Artículo 6(d) de la Ley Núm. 125 de 7 de mayo de 1942, según enmendada, conocida como la “Ley de la Autoridad de los Puertos de Puerto Rico”, el cual concede a la AP la facultad de formular, adoptar, enmendar y derogar estatutos aquellas reglas y reglamentos que fueren necesarios o pertinentes para ejercitar y desempeñar sus poderes y deberes.

El propósito de este Reglamento es establecer las normas y medidas necesarias para la protección de la salud y seguridad tanto del personal que labora en el Puerto de San Juan, como de sus visitantes; así como garantizar la seguridad de las embarcaciones que visitan el Puerto y las estructuras físicas del mismo. Este Reglamento impone a los dueños u operadores de muelles y embarcaciones la obligación de presentar un Informe Anual de Cumplimiento de Seguridad Marítima. Además, faculta al Negociado Marítimo a investigar cualquier situación que pueda constituir una violación a las normas de seguridad establecidas en este Reglamento y le autoriza a imponer multas y referir a otras agencias administrativas.

Las personas interesadas en emitir comentarios por escrito sobre este Reglamento podrán hacerlo, dentro del término de treinta (30) días siguientes a la publicación de este aviso, de la siguiente manera: (a) personalmente, durante días laborables en horario de 8:00 a.m. a 11:30a.m. p.m. y de 1:00 p.m. a 4:30 p.m. en la Autoridad de los Puertos, División Legal; (b) por correo electrónico, a la dirección: magonzalez@prpa.pr.gov o mediante correo postal a la siguiente dirección: PO Box 362829, San Juan PR 00936-2829. Aquel ciudadano que interese la celebración de una vista pública sobre la reglamentación propuesta deberá someter una solicitud fundamentada por escrito a AP dentro del término de treinta (30) días a partir de la publicación de este aviso.

Este aviso, así como el reglamento propuesto, puede obtenerse accediendo a la página web: prpa.pr.gov.

En San Juan, Puerto Rico, a 2 de mayo de 2024.

AUTORIDAD DE LOS PUERTOS

OCE-SA-2024-06684



Regulations to Regulate Port Operations in San Juan Bay

The Puerto Rico Ports Authority (“AP”), in accordance with Section 2.1 of Law No. 38-2017, known as the “Uniform Administrative Procedure Act of the Government of Puerto Rico”, publishes this announcement to promulgate the Regulations to Regulate Port Operations in San Juan Bay.

The legal basis for promulgating the aforementioned regulation arises under Article 6(d) of Act No. 125, of May 7, 1942, as amended, known as the “Puerto Rico Ports Authority Law”, which grants the AP the power to adopt, amend and repeal the rules and regulations necessary or relevant to the exercise and performance of its powers and duties.

The purpose of these Regulations is to establish the standards and measures necessary to protect the health and safety of the personnel working at the Port of San Juan, as well as its visitors, and to ensure the safety of vessels visiting the Port and its physical structures. This Regulation imposes on the owners or operators of docks and vessels the obligation to submit an Annual Maritime Safety Compliance Report. In addition, it empowers the Maritime Bureau to investigate any situation that may constitute a violation of the safety standards established in these Regulations and authorizes it to impose fines and refer to other administrative agencies.

Those interested in issuing written comments may do so, within thirty (30) days following the publication of this notice as follows: (a) personally, during business days from 8:00 a.m. to 11:30 a.m. and 1:00 p.m. to 4:30 p.m., at Puerto Rico Ports Authority, Legal Division; (b) to the following email: magonzalez@prpa.pr.gov; (c) by mail to the following address: PO Box 362829, San Juan PR 00936-2829. Any citizen who is interested in holding a public hearing on the proposed regulation must submit a written and substantiated request to the AP within a term of 30 days from the publication on this notice.

This notice, as well as the proposed regulations, can be obtained by accessing the website: prpa.pr.gov.

In San Juan, Puerto Rico, on May 2, 2024.

PUERTO RICO PORTS AUTHORITY

OCE-SA-2024-06684

UNOFFICIAL TRANSLATION FOR DISCUSSION AND COMMENTS PURPOSES

Regulations of the Ports Authority of the Government of
Puerto Rico to regulate port operations in San Juan Bay

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Chapter A. General Provisions

Article I. Title

This Regulation shall be known as the "Regulations of the Port Authority of the Government of Puerto Rico to Regulate Port Operations in San Juan Bay."

Article II. Legal Basis

These Regulations are promulgated by Act No. 125 of May 7, 1942, as amended, known as the "Puerto Rico Ports Authority Act," 23 L.P.R.A. §§ 331-352, which creates the Puerto Rico Ports Authority as a public corporation and instrumentality of the Government of Puerto Rico. Article 6, subsection (d), delegates upon it the power to formulate, adopt, amend and repeal such rules and regulations as may be necessary or pertinent to the exercise and performance of its powers and duties.

In addition, it is enacted by virtue of the provisions of Act No. 151 of June 28, 1968, as amended, known as the "Puerto Rico Docks and Harbors Act," 23 L.P.R.A. §§ 2101-2801, which empowers the Executive Director to adopt rules and regulations to facilitate the execution of this Act and for the purpose of protecting and promoting navigation, commerce, prosperity, and the general wellbeing.

In addition, it is adopted in compliance with the requirements of the "Uniform Administrative Procedure Act of the Government of Puerto Rico", Act No. 38-2017, 3 LPRA §9611-9630.

Article III: Purpose, Executive Summary, and Cost-Benefit Analysis

This regulation is adopted with the purpose of establishing the rules to regulate port operations in the Bay of San Juan. It establishes the administrative structure and procedural framework to regulate, supervise and process acts that affect port operations in the Bay. The Maritime Safety Bureau is recognized as the body in charge of supervising and ensuring compliance with this regulation. There is a protocol for cleaning up debris, fires and a safety drill. The regulation establishes the rules on general access to the Port of San Juan and the compliance rules for the identification, entry, communication, movement, transport and embarkation of vessels.

This regulation creates the obligation to submit an annual report that includes compliance with the standards of the appropriate fender system, bollards or posts, mooring points, adequate lighting system, adequate fire protection system and basic safety equipment system. In addition, the control and removal of docked, abandoned and sunken vessels is regulated.

In order to ensure and supervise compliance with the rules imposed by this regulation and public policy, charges, fines and penalties are available for non-compliance with the body of rules set forth herein. A special account is also created that will be fed by the fines imposed and whose funds will be used for infrastructure and security equipment.

It is certified that after a cost-benefit analysis of this regulation, it represents one of great social, economic and environmental benefits for the people of Puerto Rico. The rules do not impose financial burdens on the general public and fines and penalties are the result of non-compliance with the regulations.

Article IV: Applicability

These Regulations shall apply to any natural or legal person who participates directly or indirectly in maritime transit in the

Port of San Juan and on the navigable waters of Puerto Rico included in the Port of San Juan. The provisions of these Regulations shall not contravene applicable federal laws and regulations.

Article V: Definitions

For the purposes of these Rules, the following terms shall have the meanings set forth below. The use of the term in the singular shall include the plural and vice versa. Terms include masculine and feminine.

- a. Agent- means, with respect to a vessel, its consignee or the person who in any other way represents in Puerto Rico the owner of the vessel or its master; and with respect to the cargo, its consignee or the person who in any way represents the owner of the cargo of a vessel in Puerto Rico.
- b. Navigable Waters of Puerto Rico - means the navigable waters under the control or dominion of Puerto Rico.
- c. Authority- refers to the Ports Authority of the Government of Puerto Rico.
- d. Barges - A vessel, without self-propulsion, that can carry cargo or passengers.
- e. Boat or Vessel - means any vehicle useful for transporting people or things on the water.

- f. Bollard- A piece that is placed in ports to roll up and tie the moorings of ships.
- g. Ship captain - means the person who has direct command of a ship and its crew.
- h. Pilotage Commission - A governmental body charged with authorizing, regulating, supervising, and imposing penalties on pilotage, pursuant to the provisions of Act 226-1999, as amended, known as the "Puerto Rico Pilotage Commission Act," 23 L.P.R.A. §§ 361-361v, or any law that supersedes it.
- i. Cleat- A piece of metal or wood bent at the ends and fixed at its midpoint, which serves to tie the ropes of a ship.
- j. Special Account for the Maintenance of Maritime Safety in the Bay of San Juan - special bank account intended to receive the income from fines and penalties resulting from non-compliance with these Regulations. The funds in this special account will be used exclusively for investment and maintenance in infrastructure, works, goods, services, training, resources and equipment to guarantee maritime safety in the Port of San Juan.
- k. Director- means the Executive Director of the Puerto Rico Government Ports Authority.
- l. Boat owner means both the person who owns or has control of a boat and the person who in any way has chartered or leased it.

m. Annual Maritime Safety Compliance Report - Report submitted by dock owners or operators notifying compliance with the provisions required by this Regulation.

"Facility Security Officer" or "FSO" - official responsible for the development, implementation, review and maintenance of the maritime facility's security plan; liaison between the Authority and the vessel in all matters relating to maritime safety before the United States Coast Guard pursuant to 30 CFR sec. 105.205.

n. Board of Directors - refers to the Board of Directors of the Port Authority of the Government of Puerto Rico.

o. "Docks and Harbors Act" means the Puerto Rico Docks and Harbors Act of 1968, Act No. 151 of June 28, 1968, as amended.

p. "Ports Authority Act" means the Puerto Rico Ports Authority Act, Act No. 125 of May 7, 1942, as amended.

q. Quay- means any work useful for the docking of ships on land, or for embarking or unloading persons or things; but the term does not include docks under the immediate control of the U.S. federal government.

r. Maritime Bureau - Bureau of the Ports Authority, with the responsibility of carrying out maintenance, conservation, billing and operational functions in the docks belonging to the Ports Authority.

s. Security Officers - Officers attached to the Bureau of Security vested with the authority to conduct investigations, impose

finer, issue orders pursuant to these Regulations and any other duties and powers granted by the Executive Director or Special Law.

- t. Office of Security - Office attached to the Office of the Executive Director in charge of security at ports, docks, as well as any other functions inherent to the position that are assigned by the Executive Director or the immediate supervisor.
- u. Person- means any natural or legal person, or any association, partnership, organization, firm, or enterprise; and includes any chief, director, officer, officer, manager, officer, manager, manager, administrator, agent, representative, or consignee of any person.
- v. Practical- means the licensed local practitioner or the certified designated practitioner. A practical person is an experienced, well-versed and skilful person who, through practice, acquires knowledge of the place where he sails, qualifying him to direct and direct the course of the vessels by sight, being called coast or port, respectively, depending on whether it is in one or the other where he exercises his profession.
- w. Port - except where otherwise provided in the Regulations themselves, refers to the "Port of San Juan", which includes the waters within the Bay of San Juan, its maritime-terrestrial zone and its port facilities.

- x. Puerto Rico- Means the Island of Puerto Rico and the adjacent islands and waters within the jurisdiction of the Commonwealth of Puerto Rico.
- y. Mooring points - points designated to secure a vessel to the dock or balls designated for mooring, by attaching ropes.
- z. Tugboat - a high-powered motor boat used to tow other vessels or to assist vessels in their maneuvers.
- aa. Coast Guard - means the branch of the armed forces of the United States pursuant to Title 14, Part II, Section 701 of the United States Code.
- bb. Port Fee- Economic remuneration required for the provision of port activities or services subject to regulation.
- cc. Traffic means the transportation of passengers or goods by ship.
- dd. Marine Lookout - Person in charge of assigning vessels in the Port of San Juan the dock where they will dock and granting their respective authorization for such purposes, from a port control center.
- ee. Maritime-terrestrial zone means the area of the coasts of Puerto Rico that bathes the sea in its ebb and flow, where the tides are sensitive, and the largest waves in storms where the tides are not sensitive, and includes the lands reclaimed from the sea and the banks of the rivers up to the place where they are navigable or the tides become sensitive; and the term,

without qualification, means the maritime-terrestrial zone of Puerto Rico.

Chapter B: Structure, Administration and Resources

Article VI: Administration and Delegation of Authority

The execution and administration of these Regulations shall be the responsibility of the Ports Authority, for which its Executive Director shall have the powers and exercise the functions necessary in accordance with its provisions.

The Executive Director may delegate and assign to officials of the Authority the powers and functions conferred on him by these Regulations, except where otherwise provided in these Regulations, or prohibited by any law or other regulation.

Article VII: Maritime Bureau

The Maritime Bureau will be responsible for supervising compliance with the rules imposed in this Regulation. It will also be responsible for receiving, ensuring and overseeing compliance with the delivery and content of the Annual Maritime Safety Report. It will be supported by the Security Office.

Article VIII: Security Bureau.

The Office of Safety attached to the Office of the Executive Director, in coordination with the Bureau of Maritime Safety, is the entity authorized to investigate, *on its own initiative* or at the request of a party, any situation that may constitute a

violation of the rules established in these Regulations. Security officers are authorized to impose fines and take any other action necessary to ensure the safety of the docks, including making referrals to other administrative agencies.

Article IX: Debris Cleanup Protocol

The Maritime Bureau will approve a protocol for the management of debris cleanup, including floating and semi-sunken debris, in the waters of San Juan Bay. This protocol must be worked on in conjunction with the relevant administrative agencies, in accordance with current federal and state regulations. It will be reviewed annually.

Article X: Fire Management Protocol

The Maritime Bureau will approve a protocol for fire management, which must be worked on in conjunction with the Puerto Rico Fire Department and any other administrative agency deemed pertinent and in compliance with current federal and state regulations. The protocol should include the management of fires on docks and on ships. The staff in charge should be trained to understand and intervene in both matters. This protocol will be reviewed annually. The Fire Management Protocol shall be published on the Authority's website.

Article XI: Special Account for the Maintenance of Maritime Security in San Juan Bay

A special account is created into which all funds resulting from fines imposed under this regulation will be deposited. The funds in the Special Account shall be used exclusively for works, goods, resources, services and materials for the maritime security of the Port of San Juan, as determined by the Executive Director. This account will be managed by the Ports Authority's Assistant Director of Economic Development. Also, these funds can be used for infrastructure projects and dredging.

Chapter C. General Access to the Port of San Juan

Article XII: Approaching to the Port

to. Any vessel intending to enter the port shall approach the port by keeping three (3) miles offshore and shall not approach less than a distance until the Maritime Bureau has assigned it a berth and authorized its entry.

b. Each vessel, or its agent, must contact the pilot station well in advance to coordinate all the logistics of entering the Port.

Article XIII: Docking or Anchoring Permit

a. No vessel shall enter or approach the port within three (3) miles offshore if the vessel or its agent does not have a berthing permit or anchoring permit, the former issued by the Authority and the latter by the United States Coast Guard.

b. In the event that a vessel is in distress or the persons on board, the Authority shall make all reasonable efforts to

authorize its berthing at anchor in the Port. Such reasonable efforts shall not exempt the vessel, or its agent, from notifying the U.S. Coast Guard and observing applicable federal rules in such circumstances. Likewise, the vessel, or its agent, must coordinate with the pilot station.

- c. Vessels of five hundred (500) gross tons or less may enter the port without prior permission to berth or anchor and proceed to the anchorage area shown on the nautical chart of the port, or to the berths designated by the Authority for such vessels. Vessels will be subject to the payment of tariffs, according to the applicable tariff.
- d. This Section shall not apply to ships owned or operated by the United States Government when entering port in the exclusive service of the United States Government.

Article XIV: Presence of Agent or Representative

Each berthing and undocking of any vessel in the bay of San Jua must be attended by an agent or his representative, who must have knowledge of the characteristics of the vessel and the bay, in order to guarantee the safety of workers and equipment, the vessel and the port facilities. The Agent or his/her representative shall at all times keep with the Pilot Station, to clarify any doubts or questions about said operation.

Prior to the arrival of the vessel, the agent must know its physical characteristics in order to position it within the limits of the assigned dock.

Upon the arrival of the vessel, the agent must verify that the dock is ready to receive the vessel according to previous planning. At a minimum, the officer shall have a marine radio on channel 14, check that there are no obstructions, check the lighting of the dock, check the condition of the fenders and ensure that moorings are available before the ship approaches. During the docking period, the agent shall be aware of all operations of the vessel and will serve as a liaison for all parties involved while in port. At the time of undocking, the agent must be present at the dock with a marine radio on channel 14 to dismiss the vessel, ensuring that all requested services, including caberos, tugboats and pilots, are available to carry out the official protocol.

Article XV: Obligations Entailed Entering the Port

Entry into the port shall constitute an acceptance and obligation to comply with the provisions of these Regulations, the Docks and Ports Act and any other regulations. The entry will also imply the obligation to pay the pilotage fees and the rates, rights, rents and other charges and fines that are applicable in accordance with the Law on Docks and Ports and the applicable regulations.

Article XVI: Port Closure and Restrictions on Navigation

- a. The Director may order the temporary closure of a pier owned by the Government of Puerto Rico, thus preventing the docking of ships at such pier when, in his or her judgment, it is necessary for the safety of the vessels, the port and the general public. It may also, for the same purpose, prohibit or temporarily restrict navigation within the harbor or the use of the facilities, provided that any federal regulation or law occupies the field and has supremacy over the action of the Director.
- b. The Director may not delegate the powers vested herein except in cases of serious emergency requiring immediate action.

Article XVII: Use of Tug Boats in San Juan Bay

- a. All vessels, excluding cruise ships as defined under the *Cruise Lines International Association*, that are over 500 feet (152.39 meters) must be escorted with tugboats when entering San Juan Bay through the "*Anegado Channel*."
- b. Similarly, the aforementioned vessels will have to be escorted via tugboats when sailing, and turning, on the *Army Terminal Channel* and the *Graving Dock Channel*.
- c. The foregoing provision shall enter into force nine (9) months after the entry into force of these Regulations. The Director may extend the entry into force of this provision if there are no suitable tugs in San Juan Bay to perform such task. However, the Director may not extend

such term after thirty-six (36) months have elapsed since the entry into force of these Regulations.

d. San Juan Bay pilots reserve the right to request the use of tugboats at any time, when general safety warrants, in accordance with current federal and state regulations.

e. The Ports Authority shall promulgate a protocol for the use of tugboats, exclusively for berthing maneuvers in San Juan Bay, by any vessel (whether cargo, passenger, including cruise ships under CLIA), on or before thirty-six (36) months after the adoption of these regulations. Once such a protocol is adopted, it may be implemented in full force in accordance with all the provisions of this Regulation.

Chapter D. Enforcement Rules for the Identification, Entry, Communication, Movement, Transportation, and Embarkation of Vessels and Compliance with Federal Laws and Regulations

Article XVIII: Overloaded Ships or Without Waterlines

a. No overloaded ship; that does not have loaded lines marked in accordance with the laws of the United States or the International *Load Line Convention*; or that the dock at which it is scheduled to dock is not of the depth to receive the ship with the declared and manifested weight, may enter the port, or approach within three miles offshore of buoy number one (1).

- b. Whenever the Authority has reason to believe that a vessel has entered the port overloaded or loaded in violation of the laws of the United States or the International Convention on Waterlines, such that its movement constitutes a serious safety risk to the port, it shall be denied berthing at the requested dock (which is owned by the Government of Puerto Rico) and may be fined in accordance with these Regulations.
- c. In these cases, the captain of the vessel will receive written notice, as will the Harbormaster of the U.S. Coast Guard and Customs.

Article XIX: Speed

Each vessel shall at all times proceed at a prudent speed in accordance with the circumstances, to avoid the risk of causing damage to other vessels or port facilities.

Article XX: Anchoring and berthing prohibited in certain areas

No vessel may be anchored in the shipping channels or turning areas of the port, nor may it be berthed at a dock or ball not assigned to it, except in cases of extreme emergency; and in accordance with federal rules and laws.

Article XXI: Person in charge of the ship

While in port, every vessel shall have on board at all times a commanding officer and sufficient crew members to protect the ship

and avoid risks of causing damage to other vessels and port facilities. damage to other vessels and port facilities.

Article XXII: Change of Position and Muelle, Already in the Port

(a) No ship anchored or berthed in the port may move, change or amend its position, except in cases of emergency, upon notification to the Port Authority. All movement must also be coordinated in advance with the Pilot Station.

(b) Having received a first position, or priority, to enter the port does not mean that the first position will continue to be on the ship indefinitely. Once the ship docks, or is anchored, you will need to coordinate a new shift with the Pilot Station and the Port Authority.

Article XXIII: Prohibited Obstructions to Traffic

No ship shall anchor, berth, or proceed in such a manner as to obstruct traffic in the harbor, or signals to direct or regulate such traffic. Those vessels that exceed the term established in these Regulations to anchor or dock may be fined and penalized in accordance with the provisions of Article XXXVIII of these Regulations.

Article XXIV: Cranes

(a) Each owner, dock operator, and terminus who manages cranes or other equipment that can protrude from the edge of the dock into the water, may only extend it while loading or unloading ships.

(b) Crane strut lights may not in any way affect traffic in the bay at night. No vessel may extend cranes or other outboard equipment (specifically into a navigable channel) unless absolutely necessary and after proper permission has been received from the port authority.

(c) Dock owners or operators who operate a crane inside the Pan American Pier must comply with federal regulations and obtain authorization from the Federal Aviation Administration of the Government of the Nation.

Article XXV: Weight Certification for Equipment and Cranes in the Port

(a) Any wharf operator or marine terminal operator who wishes to install new cranes (for the first time or as part of an expansion plan), additional shore equipment or any structure (movable or immovable with sufficient weight) shall certify to the Director that such equipment shall not jeopardize the structural integrity of the quay and the entire area covered by the lease agreement with the Port Authority.

(b) The obligation in subsection (a) of this Article shall also be enforceable and required for operators of private docks in San Juan Bay.

(c) The Director may require the Maritime Bureau; Department of Security; or any agency of the Ports Authority, to inspect the

docks and terminals (public and private) and comply with this Article. Failure to comply with this Article will result in the imposition of fines.

Article XXVI: Mooring Service

(a) Mooring service companies that provide any person employed or contracted by them are required to provide appropriate clothing that promotes safety, such as: having at least one marine radio on channel 14 or the appropriate channel, wearing gloves, wearing a helmet, wearing life jackets, wearing suitable closed-toe shoes, reflective vests and have received basic training from the company that employs them. Moorers must present themselves at the dock at least thirty (30) minutes before the vessel approaches to dock.

(b) Failure by mooring companies to comply with this Article shall result in the imposition of fines.

Article XXVII: Collision or Accident Report

a. The Master, the pilot, shipping agent, or the person directing the movements of the ship, and who is on board any vessel running aground or having a collision with another vessel, or with a wharf, shall forthwith render an oral report to the Maritime Bureau, and shall submit a written report to the Director of the accident or collision. In the event of a minor collision, where no repairs need to be made and the ship is proceeding out to sea to continue the voyage, the captain may send such a report by mail from the next port where the vessel calls down.

b. The obligation to report, imposed by subsection (a) of this Article on the pilot or person in charge of directing the movement of the vessel, shall also be fulfilled by the master of the vessel.

Article XXVIII: Spills of Fuel or Other Materials

(a) Each dock owner or operator shall submit for the consideration and approval of the Authority a Spill Control Plan and Cleanup Procedures (Plan) in the event of a spill of oil or other material. This Plan must include an agreement with a specialized company dedicated to the management and cleaning of this type of accident. The Plan shall form part of the Annual Report.

(b) Each dock owner or operator; and each owner or operator of any vessel (with or without self-propulsion), shall be liable for any environmental contamination, in compliance with the Laws and Regulations of the Government of Puerto Rico and the Government of the United States. To the extent permitted by the rule of law, the Authority may issue fines under this Regulation for environmental violations.

Article XIX: Depth Certification

Each private dock owner or operator, as required by the Department of Engineering and Planning, shall include in the Annual Maritime Safety Report a depth certification every twenty-four (24) months. Each owner, or private dock operator, shall submit the bathymetry and survey to the Director in digital format. This bathymetry must

be carried out adjacent to the docking area of the quay ("*fender line*"). The information from these certifications will be published by the Puerto Rico Ports Authority and submitted to the Puerto Rico Pilotage Commission every two (2) years. Failure to include this information in the Report will result in the imposition of fines.

The Ports Authority reserves the right to hire consultants and specialized companies to confirm that such deepening certification was carried out correctly.

Article XXX: Safety Systems Required of Dock Owners and Operators.

- a. Each dock owner or operator (public or private) shall install and maintain an appropriate fender system, depending on the type of vessel operating at each dock. The owner or operator shall perform periodic inspections, maintain and ensure the usefulness of the fender system. The owner or operator of the dock must record and evidence the good condition of the defense system in the Annual Report. Failure to comply with the above will result in the imposition of fines by the Maritime Bureau.
- b. Each wharf owner or operator shall install and maintain in proper condition a system of bollards or low posts at the edge of the wharf as a safety measure to prevent accidents. Annual inspection of the same is required. In the event that any of the installed bollards break or fall, they must be

repaired or replaced within a reasonable time. Failure to comply with the above may result in the imposition of fines. The owner or operator of the dock shall record in the Annual Report compliance with the bollard system.

c. Each dock owner or operator shall install and maintain a system of mooring points appropriate to the type and size of vessel operating, in accordance with applicable federal and state regulations. Inspection of the tie-down point system is required to ensure its maintenance and usefulness. The owner or operator of the dock shall record in the Annual Report compliance with the above.

d. Each dock owner or operator shall install and maintain an adequate lighting system in accordance with applicable federal and state regulations. The lighting system must be illuminated from top to bottom, to avoid interfering with the navigation of vessels transiting in the bay. Inspection and maintenance of the condition of the lighting system is required to ensure usefulness. The owner or operator of the dock shall record in the Annual Report compliance with the above.

e. Each dock owner or operator shall install and maintain an adequate fire suppression system in accordance with applicable federal and state regulations. The owner or operator of the dock must obtain an inspection certification

from the Puerto Rico Fire Department within thirty (30) days prior to the submission of the Annual Report. The dock owner or operator must include the Certification as part of the Annual Report.

f. Each dock owner or operator shall install and maintain a system of basic safety equipment, including at least a lifebuoy with light and string, and ladders to exit the water. The owner or operator of the dock shall record in the Annual Report compliance with the above.

g. Each dock owner or operator must ensure that all personnel on duty will use the clothing, uniform, footwear and any other safety equipment necessary to carry out the work in the Port of San Juan. The owner or operator of the dock must record in the Annual Report the dress and safety protocol adopted and notified to its employees. Security Officers may impose fines on any employee who violates the adopted Protocol.

Article XXXI: Security Drills

The Authority will conduct security drills in order to evaluate the systems and processes implemented and make continuous improvements to them. After a drill procedure has been carried out, the Authority will submit a report with the results of the procedure, including the deficiencies found and the protocol to be followed to correct them.

Chapter E: Control and Removal of Docked, Abandoned and Sunken Vessels

Article XXXII: Removal of Sunk, Abandoned, Unauthorized, or Improperly Positioned Ships

- a. No vessel may remain stranded or abandoned at the entrance to the port or within the port for a period of more than one (1) day, except with the authorization of the Executive Director or his or her delegate.
- b. Any vessel sunk, aground, abandoned, or anchored or positioned in an inappropriate place that obstructs navigation, or poses a safety hazard, shall be removed by its owner, master or agent within one (1) day after notice from the Chief Executive Officer, or any person in whom the Executive Director is responsible. delegate, ordering their removal. Notice shall be given by written notice to the owner, master, or agent of the vessel, or by posting such notice on the vessel, or by "Notice to Mariners" through the United States Coast Guard. If none of such persons are located or known; or its owner or agent does not wish to remove the vessel, the Authority may remove the vessel at the owner's expense.
- c. In exigent and pressing situations, where safety, life, property, general welfare, risk of environmental damage, and similar situations are at risk, the Authority may remove the vessel at the owner's expense.

- d. Without prejudice to the right of the Authority to recover by other means the cost of the removal of the ship, it may also do so by enforcing the marine lien provided for that purpose, seizing the ship and selling it at public auction, as provided in Section 5.17 of the Docks and Harbors Act, Act No. 151 of 28 June 1968, *supra*. To this end, the Director shall give notice of the seizure and sale at public auction, in the manner provided in subsection (a) of this Article and shall also publish a notice to the same effect in at least one newspaper of general circulation in Puerto Rico, on the Authority's website and on its social networks. The notice shall specify the date, time and place of the auction and the name of the person conducting the auction on behalf of the Authority.
- e. From the proceeds of the auction the Authority shall collect any sums due for the vessel under the provisions of Act No. 151 of 28 June 1968 *above* and its regulations, plus the expenses incurred for the removal of the vessel and those incurred in the public auction proceeds. The surplus, if any, will be given to the person entitled to receive it. Otherwise, it will be deposited in the special account called, Special Account for the Maintenance of Maritime Security in the Bay of San Juan.
- f. Any natural or legal person in the Bay of San Juan, who, by intention or negligence, causes any vessel under his care to float adrift, shall be considered as an abandoned vessel by

virtue of this Article and the provisions established herein shall apply to him.

Article XXXIII: Abandoned Vessels, Property and Equipment

Any person who needs to maintain a vessel, property or equipment at the dock for a period of time longer than originally granted shall apply to the Director or a person delegated by the Director for authorization to do so. In this application, the reasons that make it necessary for the goods to remain on the dock shall be stated. After evaluating the application, the Director will approve or reject the application. If the permanence of the vessel, goods and/or equipment is approved, the Director shall issue a written communication, in which he shall grant a term for such permanence, which shall not exceed thirty (30) days, unless just cause is presented and the Director so authorizes. In the event that the Director authorizes the maintenance of the vessel, property or equipment, the person requesting the authorization shall. The charge imposed will be deposited in the bank account called the Special Account for the Maintenance of Maritime Security in the Bay of San Juan. If the request is denied, the Authority shall notify the requesting party in writing, allowing a reasonable period of time for the removal of the vessel, property and/or equipment. If, after this period, the goods remain on the quay, they will be considered abandoned and will proceed in accordance with the provisions of the previous section.

Chapter F: Offences, Fines and Challenge Processes

Article XXXIV: Offences for violations of these Regulations

- a. Pursuant to section 2801 of the Docks and Harbors Act, Act No. 151 of June 28, 1968, *above*, and sections 2302, 2408, 2503, 2516 and 2605, any person who violates any of these sections by violating these Regulations shall be guilty of a felony punishable by imprisonment for a term not exceeding two (2) years. or a maximum fine of two thousand dollars (\$2,000), or both.
- b. Pursuant to Section 2801 of the Docks and Harbors Act, Act No. 151 of June 28, 1968, *above*, and Section 2418 thereof, any master of a ship who violates that section by violating these Regulations shall, for each offense, be liable to imprisonment for a term not exceeding two (2) years, or a maximum fine of ten thousand dollars (\$10,000), or both.

Article XXXV: Administrative fines

The Authority may impose fines for violation of these Regulations of up to five thousand (5,000) dollars for each violation, as detailed in the Ports Authority's Fines Manual. The income received as a result of these fines will be deposited in the special account called, Special Account for the Maintenance of Maritime Safety in the Bay of San Juan.

In cases where the laws administered by the Ports Authority provide for criminal penalties, the Executive Director, at his option, may also file an administrative complaint to prosecute the case through administrative channels and impose an administrative fine.

Article XXXVI: Additional Fines and Penalties

Violation of the rules established in these Regulations may lead to additional remedies to the administrative fines detailed in the previous Section. These additional remedies may include, but are not limited to, revocation of berthing permits, cancellation of credits, cancellation of contracts, cancellation of payment plans, among others.

Article XXXVII: Procedures for challenging fines

The party adversely affected by the imposition of a fine, penalty, administrative action or other remedy imposed by the Ports Authority shall have a term of thirty (30) days, counted from the notification of the corresponding action, to file an administrative complaint challenging the fine, penalty, administrative action, remedy or any other corresponding action. Challenge proceedings for sanctions, fines and remedies for violation of these Regulations shall be filed with the Maritime Bureau. Any fine, penalty, administrative action, or other remedy imposed by the Ports Authority shall advise the parties of the terms and process of contestation.

These provisions are inapplicable to proceedings relating to abandoned vessels, equipment and property. These proceedings shall be held in accordance with the special procedure established in these Regulations.

Chapter G: Transitional and Interpretative Clauses

Article XXXVIII: Interpretation of the Regulations in the Face of Amendments to the Law

If, after the approval and entry into force of these Regulations, any of the laws cited as a legal basis are amended, the provisions of the Regulations shall be interpreted in accordance with the rule of law in force. In such a case, any provision that is contrary to the law in force shall be deemed to be repealed.

Article XXXIX: Transitional Clause

These Regulations shall be effective immediately, unless a particular Article provides for a subsequent term of effect.

Article XL: Severability Clause

If any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, subsection or part of these Regulations is annulled or declared unconstitutional, the resolution, opinion or judgment issued to that effect shall not affect, prejudice, or invalidate the remaining provisions thereof, but its effect shall be limited

to the word, sentence, subparagraph, specific article, section, or part declared unconstitutional or void in that controversy.

Article XLI: Validity

These Regulations shall enter into force thirty (30) days after their filing with the Department of State, pursuant to the provisions of Act No. 38 of 2017, known as the "*Uniform Administrative Procedure Act*."

Approved _____, 2024.

DRAFT