

CHAPTER 4
AGANA BOAT BASIN

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NOTE: Rule-making authority cited for formulation of Agana Boat Basin regulations by the Director of Parks and Recreation, §3115, Chapter 3, 5 GCA.

Regulatory power for Agana Boat Basin regulations was originally vested in the Director of Commerce, §3110, Chapter 3, 5 GCA. Subsequently all powers of the Department of Commerce in the area of parks and recreational resources were transferred to the Department of Parks and Recreation.

The regulations of the Agana Boat Basin are reprinted here in form as exact as possible to those filed with the Legislative Secretary. The substance of the regulations has not been changed. However, for the purpose of uniformity and ease of use, a new system of numbering has been adopted by the Editor.

§4101. Definition of Terms. Unless other wise expressly provided, the following words when used in these rules and regulations shall have the following meanings:

(a) *The term of boat or vessel* shall mean any watercraft or other contrivance used on or capable of being used as a means of transportation in the water.

(b) *Department* shall mean the Department of Parks and Recreation.

(c) *Director* shall mean the Director of Parks and Recreation, government of Guam or his designee.

(d) *Government* shall mean the government of Guam.

(e) *Marina* shall mean that portion of government property known as the Agana Boat Basin. The physical measurements are as out lined in Figure 1. (Note: Please contact the Department of Parks and Recreation for all diagrams concerning Agana Boat Basin.)

(f) *Recreational boating activities* shall mean utilization of watercraft for hobbies, sports or pleasure. This excludes watercraft whose sole or principal use is for human habitation or commercial fishing activities.

(g) These rules and regulations have been compiled in the light of the requirements of other agencies of the government of Guam and the various activities of the United States having jurisdiction of activities herein contemplated. 'Incorporation by Reference' to such regulations is hereby stated to be the basic rule of

interpretation for these rules and regulations. In case any disputes arise as to applicability they will be determined by the Director.

§4102. Use of Agana Marina: General Statement. It shall be unlawful for any person to anchor, store, moor, tie or otherwise confine any boat, vessel or contrivance in the mooring areas of the marina (except at designated loading, transient or fueling docks) without first obtaining a Use Permit from the Director. It is the policy of the Department that moorings in the small boat harbors be used for the purpose of accommodating vessels used for recreational boating activities. To implement these purposes, only vessels capable of being propelled, maneuvered and navigated with safety, convenience and efficiency in the waters surrounding and within the confines of the marina shall be permitted to moor, anchor or berth at such marina or use any of its facilities. Habitation of boats in the marina is strictly prohibited, except for periods of short emergency as designated by the Director.

The Department reserves the right to restrict the use of government property or facilities to those who observe these rules and regulations and make full and timely payments of applicable fees and charges.

§4103. Same: Use Permits - Issuance. The Use Permit mentioned in this Section and in these rules and regulations shall mean the written authorization granted by the Director for the purpose of allowing a boat to be anchored, stored, moored, tied or otherwise confined in or at the marina.

Use Permits shall be issued only after a determination by the Director that all applicable laws have been complied with and that all fees and charges payable at the time of the issuance or reissuance of a permit have been paid.

§4104. Same: Period of Validity and Renewal of Use Permit. The Director may issue or renew a Use Permit for any period up to, but not exceeding one (1) year. Upon expiration of the period stated therein, the permit and all rights of the permittee thereunder shall automatically terminate. No Use Permit shall be renewed unless the conditions of the original issuance are met nor shall a Use Permit be issued or renewed unless all fees and charges due and payable are paid.

§4105. Same: Revocation of Use Permits. (a) A Use Permit may be revoked for any of the following reasons:

- (1) Delinquency in the payment of any fee or charge;
- (2) The vessel no longer meets the Department's standards of safety, sanitation and maintenance; and
- (3) Any other grounds specified in these rules and regulations.

§4106. Same: Application - Contents and Requirements. Any person who is the owner of a private pleasure boat shall be entitled to make application for a permit to tie, moor or dock his boat in the marina. Such permits shall be issued in the order in which they are received by the Director, and he shall assign the applicant a specific berth:

(a) Such application shall be upon the form prescribed by the Director and shall contain:

- (1) The United States Coast Guard, government of Guam or other official registration number of the boat, if any.
- (2) Name of the boat.
- (3) Manufacturer's name.
- (4) The overall length and beam of such boat for which the permit is applied.
- (5) Date of such application.
- (6) The name, residence and mailing address of the owner.
- (7) Age of the owner.

(b) Any holder of a permit must attach same to the boat as herein provided and failure to do so shall be prima facie evidence that no valid permit is held by the owner of such boat.

§4107. Same: Cancellation of Use Permit - Refund. A Use Permit may be cancelled by a boat owner upon thirty (30) days written notice to the Director. Any refund shall be prorated according to remaining period of validity of the permit.

§4108. Same: Inspections. All vessels located on or upon the waters of a marina shall be subject to inspection by the Director at any time when necessary and proper for the purpose of enforcing these rules and regulations. In keeping with marine custom, reasonable efforts shall be made to obtain permission to board from the owner or captain prior to inspections.

§4109. Same: Removal of Vessels. Persons docking, tying or mooring a boat shall remove such boat from the marina within ten (10) days after written notification from

the Director in the event the boat becomes sunk or for any reason the Director determines that such boat would create a hazard to other boats stored in the marina. Any action taken by the Department to remove the vessel or contrivance shall be at the sole cost and risk of the owner of the vessel or contrivance.

§4110. Same: Department Authorized to Move Vessel. (a) The Department reserves the right, when it is necessary and proper to do so, to:

- (1) move any vessel from one part of the marina to another;
- (2) remove any vessel from the confines of the marina; and
- (3) remove any vessel to dry storage.

(b) Unless emergency or other circumstances require otherwise, such action shall be preceded by reasonable effort by the Department to give notice and opportunity to the owner to remedy the situation himself by removal or otherwise. Upon failure to comply within ten (10) days of such notice, such actions may be effected either by the Department itself or through the hiring of an independent contractor and at the sole risk and expense of the owner.

§4111. Same: Salvage. If a vessel is moored so as to be in danger of sinking, the Department shall, after making reasonable effort to give due notice and opportunity of its owner or agent to effect appropriate remedy, take action as the circumstances require to save or rescue the vessel, prevent damage to other property or destruction of waterways. The cost for such service shall be assessed the owner.

§4112. Same: Liability - Content. (a) Acceptance of a permit shall constitute an agreement that the permit holder will hold the Government and its authorized representatives completely blameless for any liability in connection with the operation, docking, tying or mooring of any boat.

(b) The holder of a Use Permit shall be responsible for any damage occurring as a result of the operation of his boat by any minor.

(c) The actual operator of any vessel shall be liable for any damage caused by such vessel in the water of the marina except as stated in Section (b) above.

§4113. Same: Age Restriction. No permits shall be issued to minors under eighteen (18) years of age. No persons under twelve (12) years of age shall be admitted to the marina unless accompanied by an adult who shall assume full responsibility for his safety and conduct.

§4114. Same: Non-Transferability of Permits. A permit granted by the Director shall not be assigned or transferred. Persons holding a permit may not sublease the space assigned to the holder of such permit nor allow any person to dock, moor or otherwise use such space and the same must be solely by the boat for which the permit is issued. [Part II, Sec. 2.13]

§4115. Same: Auction on of Abandoned Undocumented Vessels to Collect Delinquent Fees. In the event any vessel is abandoned or any owner is delinquent in the payment of any fee or charge after reasonable notice, the Director may publicly auction off such undocumented vessel, applying funds received to any unpaid charge holding the balance to the credit of the owner.

§4116. Same: Cases Involving Seizure and Auction of Documented Vessels. Documented vessels which are abandoned or delinquent in the payment of any fees or charges shall be referred to the U.S. Attorney for further action.

§4117. Same: Report of Change of Ownership, Address and Other Material Factors. (a) The owner of any vessel moored in the marina shall notify the Department in writing within seven (7) days if:

- (1) He no longer has possession of the vessel; or
- (2) All or any interest in the vessel is transferred to another person or persons; or
- (3) The owner's address or telephone number changes; or
- (4) The vessel is chartered, leased or rented.

The new possessor or owner of any interest in any vessel moored in the marina shall within seven (7) days after acquiring same notify the Department in writing concerning the acquisition.

§4118. Sanitation: Standard. All vessels and any property or facility used in the marina shall be kept, at all times, in condition of reasonable cleanliness and sanitation so as not to constitute a common nuisance or potential danger to public health.

§4119. Same: Garbage and Other Offensive Matter.

No person shall have or keep on his vessel any offal, garbage, decaying matter or any other matter which gives off an offensive odor except when the same is being disposed of as garbage and is kept in a receptacle which shall be kept closed by a tight fitting cover at all times except when being filled or emptied.

§4120. Same: Flies. No person shall have or keep on his vessel any article, substance or thing whatsoever in which flies may breed, unless the same be kept securely protected from flies.

§4121. Same: Rodents. No rubbish or waste of any kind shall be placed, left, dumped or permitted to accumulate or remain on any vessel or in the vicinity of the same, in such a way so as to constitute a breeding place for rodents.

§4122. Same: Littering Land Areas - Prohibited. No person shall throw, place, leave, deposit or abandon or cause or permit to be thrown, placed, left, deposited or abandoned any litter within the marina, except in receptacles designated by the Department for the disposal of such materials. No person shall use refuse containers or other refuse disposal facilities in a harbor for disposing of litter brought as such into the harbor except when the litter is generated during and results from a vessel's voyage. Without limiting the generality of the foregoing, "litter" as used in this Section means any and all types of debris and substance, whether liquid or solid and materials such as garbage, refuse, rubbish, glass, cans, bottles, papers, wrappings, fish or animal carcasses or any other nauseating or offensive matter or any machinery, appliance or automobile or parts thereof, or any other substances which render land or facilities unsightly, noxious or otherwise unwholesome or to the detriment of the public health and welfare or the enjoyment of the harbor for recreational purposes.

§4123. Same: Littering or Polluting Water - Prohibited. No person shall place, throw, deposit or discharge into the waters of the marina any litter, sewage or other gaseous, liquid or solid materials which might render the water unsightly, noxious or otherwise unwholesome so as to pollute the water and to be detrimental to the enjoyment of the water for recreational purposes.

§4124. Same: Marine Toilets - Restrictions. (a) No toilet on a vessel or contrivance shall be operated so as to discharge any treated or untreated sewage directly or indirectly into the waters.

(b) No person on a vessel or contrivance equipped with a toilet shall use or permit the use of, such toilet while within the marina unless the toilet is equipped with facilities in good operating condition that will adequately treat, hold, incinerate or otherwise handle sewage in a manner that is capable of preventing water pollution. A water pollution control device is acceptable for the purposes of this Section is any device determined by the Director of Public Health and Social Services, to be effective in arresting the possibility of pollution from sewage passing into or through a toilet aboard a vessel or contrivance.

(c) Marine toilets shall be mandatory aboard boats utilizing the marina in keeping with the U.S. Coast Guard Regulations.

§4125. Fire Safety: Standard. All vessels and all property or facilities used at the marina shall be used in such manner and maintained in such condition as not to constitute a potential fire hazard.

§4126. Same: Appliances and Electrical Wiring. All cooking or heating appliances or any other machinery, equipment, utensils or apparatus which is used at the marina and could be the cause of fire shall be so constructed, installed, wired, situated, maintained and used so as to meet the standard set out in §4125.

§4127. Same: Fire Extinguishing Equipment. Any vessel utilizing the waters of the marina shall be provided with approved fire extinguisher in keeping with U.S. Coast Guard Regulations. The extinguisher 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.

§4128. Same: Fueling. (a) The fueling of vessels at the marina where a marine fueling station has been established, shall be accomplished only at such station:

(1) Prior to fueling a vessel, the operator shall:

(A) Securely moor the vessel.

(B) Stop all engines, motors, fans and devices liable to produce sparks.

(C) Extinguish all fires.

(D) Close all ports, windows, doors and hatches.

(2) Persons fueling a vessel shall:

(A) Refrain from smoking, striking matches or throwing switches.

(B) Keep nozzle of hose or can in continuous contact with fuel opening to guard against static sparks.

(3) After fueling is completed, the following actions shall be taken:

(A) Close fill openings.

(B) Wipe up all spilled fuel.

(C) Open all ports, windows, doors and hatches.

(D) Permit vessel to ventilate for at least five (5) minutes.

(E) Ascertain that there are no fuel fumes in the bilges or below deck before starting machinery or lighting fires.

§4129. Same: Smoking. Smoking shall be prohibited when so prescribed by signs, and regardless of the Department's failure to post signs, no smoking or lighting of a match or any other fire-generating device shall be permitted within a fifty (50) foot radius of any fueling operation.

§4130. Same: Dumping of Combustibles. No person shall dump, discharge or pump oil, spirits, gasoline, distillate, any petroleum product or any other flammable material whatsoever into the water. All discharges of any quantity will be reported to the Coast Guard and the responsible party shall be liable to prosecution under applicable Federal law.

§4131. Same: Emergency Exits. Each vessel shall be provided with adequate exits to afford sufficient paths of escape in case of emergencies. The number and location of such exits shall be commensurate with the size, type and make of each vessel.

§4132. Same: Open Fires. Charcoal grills and similar open fire cooking devices shall, while lighted, be attended at all times.

§4133. Same: Lifesaving Equipment Required. Any vessel utilizing the waters of the marina shall be equipped with the required Coast Guard approved lifesaving

devices. The lifesaving equipment shall at all times be kept in good and serviceable condition for immediate and effective use and shall be so placed as to be readily accessible; provided, that if any person is aboard any vessel or contrivance, it shall be equipped with at least one USCG approved type preserver, ring life buoy, buoyant vest or special cushion for each adult person aboard for that USCG class of vessel. If there are any children aboard, Coast Guard approved life preservers suitable for children shall be provided for each child aboard.

§4134. Maintenance and Storage: Standard. Every vessel and all other personal property and facilities at a small boat harbor shall be kept in such condition of repair, maintenance, neatness and orderliness so as not to constitute a common nuisance, substantial danger to person or property, or obstruction to proper public use.

§4135. Same: Storage. (a) No person shall store supplies, materials or equipment on catwalks, piers, sidewalks, parking areas or any other public area at the marina, except:

(1) in areas set aside by the Department for storage purposes; or

(2) upon prior consent by the Department. [Part V, Sec. 5.02]

§4136. Same: Special Areas. The Department may designate areas to be used only for specified purposes or operations, as required from time to time.

§4137. Same: Gear Lockers. No person shall construct a gear locker at the marina without the prior written approval of the Department.

§4138. Miscellaneous Rules and Regulations: Standard. Persons using the docking facilities of the marina shall at all times comply with any reasonable request of the Director or any other person designated by him to be in charge of such boat basin for the purpose of facilitating the effective management of the marina.

§4139. Same: Tampering With or Damaging a Vessel or Government Property; Construction of Structures. (a) No person shall deface, mark, damage or erect any structure or attach any wood, metal or other material to the dock facilities or the dock, piling or wharf belonging to or under the control of the Government nor permit any persons to damage or deface, mark, destroy or attach

anything to said dockage installation as aforesaid without the written approval of the Director.

(b) No person shall injure, deface, displace, remove, fill in, raise, destroy or tamper with any drive, path or walk; take up, remove or carry away trees, shrubs, turf or any material or substance; remove or destroy any structure, building or any appurtenances connected with the marina or any other property or equipment, real or personal owned by the Government, or under the jurisdiction and control of the Government.

§4140. Same: Launching Restriction. No person shall lift, drag, launch or otherwise cause any boat to be dragged, lifted, launched, passed upon or otherwise taken across the dock, bulkhead, pilings or other dockage facilities, wharf, catwalk or dockage installations surrounding or installed at the marina, except when removing vessels from or replacing in the water in connection with drydocking, removal or similar activity. Small watercraft which may be launched at the ramp facility, provided necessary and reasonable transport at the marina shall be done so under the sole direction of the owner or responsible representative of the owner and without risk or liability in any manner to the Government.

§4141. Same: Loitering and Trespassing Prohibited. Loitering, trespassing in boats, unauthorized climbing and boarding, damaging or interfering with boats docked, stored or moored in the marina is prohibited.

§4142. Same: Lines; Requirements. Owners of boats are required to supply, install and maintain their own lines for mooring, tying and securing their boats. In the case of out boards, rowboats and other small crafts, sixteen (16) feet or under, 3/8" line is required; other watercraft over sixteen (16) feet, 1/2" is required.

§4143. Same: Small Crafts; Restrictions. Dinghies, rowboats, floats or any small craft usually tied to the stern of a larger boat are not permitted in the marina except when firmly secured to the upper deck of the accompanying boat or placed in the davits which are usually provided for such craft.

§4144. Same: Repairs. Only emergency repairs are permitted on boats stored at the marina, except at designated repair or dry docking areas for periods of such use necessary, and subject to prior approval of the Director.

§4145. Same: Appearance and Sanitation; Responsibility. Boat owners holding permits to lock or moor their boat at the marina shall be responsible for the appearance and cleanliness of the boat, piling and bulkhead in front of and adjacent to the berth or dock space assigned to such owner.

§4146. Same: Speed Limit. No boat shall be operated at a greater speed than is reason able nor more than four (4) miles per hour in the marina. The term *speed* shall mean the speed of a boat as measured in slack water in statute miles. All boats are responsible for damage caused by their wakes.

§4147. Same: Swimming. No person shall bathe, wade, snorkel, scuba dive or swim in any waters of the marina, except during those activities necessary in the launching, removal or emergency repair of vessel.

§4148. Same: Responsibility of Boat, Equipment and Installations. The Government shall not be responsible for the loss, damage, theft, destruction or other injury to any boat, vessel or watercraft including equipment, fixtures and contents of any boat, vessel or water craft for which a permit is issued, or otherwise whether the boat is tied to, launched or attached to any installations provided by the Government, and the use of the dockage installations at the marina shall be the sole responsibility of the owner or person holding the permit or license.

§4149. Same: Personal Injury and Property Damage. The Government shall not be responsible for any personal injury, loss of life or damage to property, to passengers, guests, visitors, spectators or employees of permit holders in connection with the use of the marina. By the acceptance of a permit hereunder, the holder thereof assumes full liability and responsibility therefor.

§4150. Same: Solicitation and Advertisement. No person shall solicit alms or contributions for any purpose at the marina nor post or distribute advertisements or other matter for advertising purposes, except as conducted or approved by the Director or his agent and then not to exceed two (2) weeks at any one time.

§4151. Same: Berthing Rates. (a) Assigned slips or mooring areas:

	Apr. - Nov.	Dec. - Mar.
Under 16 feet	\$15 monthly	\$10 monthly
16 - 23	18	12

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24 - 39	30	20
40 and over	40	30

(b) At the transient "hotel" dock:

	All Year
Under 16 feet	\$1 per day
16 - 23	2
24 - 30	3
40 and over	4

§4152. Fishing Methods. 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, provided that:

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

(b) The use of the cast-net (talaya) is prohibited within the Agana Boat Basin proper. Within the channel, it may be used during the hours of 3:00 a.m. and 7:00 a.m. However, the cast-net (talaya) is not permitted to be thrown within the channel (or Basin proper) from any boat, whether stationary or in motion.

(c) The use of the cast-net (talaya) shall not be permitted if there is any rope attached.

NOTE: §4152 was amended pursuant to Executive Order 75-30.

§4153. Same: Net and Trap Devices. Net and trap devices of all kinds shall not be used for fishing in the area within one hundred fifty (150) yards of the shoreline surrounding the Agana Small Boat Basin and the Paseo de Susana Shoreline adjacent to the channel.

§4154. Same: Definition. For purposes of this regulation, the following terms are defined as follows:

(a) *Angling.* Fishing with a hook and line in an attempt to catch the fish by piercing a hook internally through the mouth of the fish.

(b) *Snagging.* Fishing in a manner with violent jerking motions in an attempt to pierce the body of the fish externally.

§4155. Penalties. (a) Any violation of the above rules and regulations shall be cause for revocation of the Use Permit and/or removal of the vessel from the boat basin.

(b) Pursuant to 5 GCA §70204, every person who violates, causes, permits to be violated or fails or refuses to comply with any rules or regulations adopted herein is guilty of misdemeanor, punishable by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment of not more than one (1) year or by both such fine and imprisonment.