

CHAPTER 6
OPERATION OF MECHANIZED WATER CRAFT
(DEPARTMENT OF PARKS & RECREATION)

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§6100. Purpose and Applicability. The purposes of these rules and regulations are to reduce conflicts among water users in the Recreational Water-Use Management Plan area, especially within those areas of high activity, and to insure the safety and rights of the general public. The Recreational Water-Use Management Plan (RWUMP) designates specific areas for specific uses, pursuant to the policy of 10 GCA Chapter 60 and 21 GCA §77119 to promote safety for persons and properties in and connected with the use, operation and equipment of vessels.

§6101. Definitions. (a) *Canoe* means a narrow light boat moved by paddle.

(b) *Commercial operator* means the individual, corporation, partnership, joint venture or other entity to which a business license is issued for the purpose of conducting a water business within the waters of Guam.

(c) *Commercial Use* means the rental or sale of vessels for a fee within the RWUMP.

(d) *Commercial Vessel* means vessels used for commercial purposes.

(e) *Corridor* means an area designated within the RWUMP to serve as the only authorized access for vessels to and from the shoreline to specially designated areas.

(f) *Egress* means a way out. Exit.

(g) *Hovercraft* means a vessel whose propulsion allows the craft to float above land or water on a cushion of air.

(h) *Ingress* means the act of entering. An entrance.

(i) *Marker* means a waterway marker which indicates the existence of regulatory areas, speed zones or restricted areas which has no equivalent in the United States Coast Guard system of navigational aids.

(j) *Motorized Water Recreational Craft (MWRC)* means any motorized vessel with the capacity to carry the operator and may also have the capacity to carry one or more other persons while in operation. The term includes but is not limited to a "jet ski", Hydroplane, wet bike and surf-jet.

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

(l) *Para-sailing* means the activity in which an individual is transported or carried aloft by a parachute, sail or other materials attached to a tow line which is towed by a vessel.

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

(n) *Platform* means a raised horizontal surface normally supported by post or pillars permanently or temporarily affixed to the ocean floor.

(o) *Raft* means a flat structure of wood or other flotation device, fastened together and floated on water.

(p) *Recreational Water-Use Management Plan (RWUMP)* means the rules and regulations, statutes and maps which govern the use of areas designated as RWUMP areas.

(q) *RWUMP areas or Plan areas* means areas designated for regulated use by executive order of the Governor.

(r) *Seaplane* means any aircraft which is able to take off and land on water including, but not limited to, ultralight float equipped aircraft and helicopters.

(s) *Slow-no-wake* means as slow as possible without losing steerage way and so as to make the least possible wake. This almost always means speed of less than five miles per hour.

(t) *Ultralight float equipped aircraft* means an aircraft of light weight construction and limited range able to land on water surfaces using floats.

(u) *Vessel* means every description of water- craft, other than a seaplane, on the water used, or capable of being used, as a means of transportation on water.

(v) *Water-craft* means every description of vessel, other than a seaplane, on the water used, or capable of being used, as a means of transportation on water.

(w) *Windsurf* means the use of a surfboard- like vessel equipped with a sail and propelled by the wind.

§6102. Safety and Enforcement. The restrictions cited in these rules and regulations shall not apply in the event of an emergency to law enforcement or rescue craft, or to vessels participating in an event authorized pursuant to an approved marine event permit issued by GPD, or the U.S. Coast Guard.

§6103. Penalties. Any person violating any of the provisions of these rules and regulations shall be penalized as provided in Chapter 69, Title 10 of the Guam Code Annotated, as amended.

§6104. Water-Craft Vessel Operations. (a) General Operating Procedures.

(1) All MWRC users operating within the waters of the territory of Guam must comply with all United States Coast Guard licensing and safety procedures.

(2) The speed limit of all vessels upon rivers and lakes within the territory of Guam shall not exceed five miles per hour.

(b) Water-craft Operations.

(1) Ingress and egress of water-craft through a defined corridor shall be at a slow-no-wake speed of not more than five miles per hour (5 MPH).

(2) Access to a designated water-craft course shall be permitted only within corridors as designated in the management plan.

(3) Guam Police Department (GPD) and the Department of Parks and Recreation (DPR) shall be responsible for a placement of anchors for water-craft operations.

(4) Operators using a MWRC, course as designated by DPR pursuant to section 9 of these rules

and regulations, shall stay within the designated course area.

(5) Operation of MWRC will be permitted only during the hour set forth in 10 GCA §69119.

(c) **Age of Operator.** No person under the age of 16 shall operate a MWRC unless visually supervised by a person 18 years of age or older. This age requirement shall apply to all MWRC operations.

(d) **Operation of Jet Ski or Motorized Water Recreational Craft Within the Reef or Channel.** No person shall operate a Jet Ski or any Motorized Water Recreational Craft within the reef or channel from (Area 4) Mannel Channel to (Area 5) Patti Point, Yigo as shown in Key Map DPR95-1001 A RWUMP 003.

Specially permitted competitive or sporting events held in conjunction with village fiestas, or for the purpose of local, national, or international competition, may be exempted by discretion of the Director of the Department of Parks and Recreation.

All MWRC Crafts shall have access to enter and exit areas outside the reefs from any designated launching area or ramp facility, and only by the most direct route consistent with safety consideration and shall be permitted within this corridor at a speed limit not to exceed Five (5) miles per hour.

A key map is attached.

§6105. Para-Sailing Activities/Operations. Para-sailing activities shall be conducted in the waters of Guam in compliance with the U.S. Coast Guard and rules and regulations promulgated by the territory of Guam. Para-sailing activities shall further be subject to the following provisions:

(a) No para-sailing shall be permitted within the reef or harbor areas surrounding the island of Guam except within areas specifically designated for such activity.

(b) All para-sailing vessels shall have access to areas outside the reef or harbor areas only from harbor or ramp facilities, and only by the most direct route consistent with safety considerations.

(c) Para-sailing shall not be permitted within any marked channel entrance.

§6106. Windsurfing Activities/Operations.

Windsurfing activity shall be governed by the following:

- (a) No person shall engage in windsurfing activity within one hundred feet of a shoreline except in designated areas used for supervised instruction or when launching from or landing on a shoreline.
- (b) Ingress and egress to the shoreline shall be made by the most direct route as dictated by wind conditions.
- (c) Maneuvering shall be in accordance with rules of the road pertaining to sailing vessels.
- (d) Windsurfer operators shall approach no closer than one hundred feet to a dive flag indicating dive activity in progress.

§6107. Prohibited Operations. (a) Seaplane, helicopter, ultralight float equipped aircraft, hovercraft, and other craft of similar design, or vessels as defined in 10 GCA Title 16, are prohibited within the reef and harbor areas surrounding the island except within specifically designated areas.

(b) The use of shuttle vessels in support of activities in subsection (a) above shall be prohibited within the RWUMP area except through designated corridors to permit access to areas outside the reef.

§6108. MWRC Courses. The DPR shall establish within each RWUMP specifically designated MWRC courses, pursuant to P.L. 20-117. These courses shall be the only areas within the RWUMP where operation of MWRC will be permitted. Within RWUMP area the maximum number of separate and distinct MWRC courses shall be determined after the public hearing.

§6109. Use of Commercial or Recreational Vessels Within the Recreational Water-Use Management Plan Area. No commercial or recreational vessel shall land, board or discharge passengers at any part of the beach or at other public areas within the RWUMP except at those locations so designated, nor can any commercial operator use or operate in areas within the RWUMP other than the area for which the commercial operator has been issued an appropriate permit.

§6110. Fees. Fees required to be paid for licensing vessels shall be as provided in 10 GCA Chapter 69 and applicable rules and regulations.

§6111. Registration Requirements. The requirements for the registration of vessels, shall be in accordance with the applicable registration provisions set forth in 10 GCA §§69102 through 69106. The GPD may suspend, cancel or revoke the certificate of ownership or the certificate of number of any vessel in any of the events occurring as stipulated in 10 GCA §69109.

§6112. Placement of Markers. Placement of movable markers on the permanent anchors will be the vendors. Type of markers must be approved by GPD.

§6113. Rafts and Platforms. Course markers and rafts located within the RWUMP will be removed after the hours designated for the close of operations, as defined in Section 5.2(e), from the waters of the Territory or secured overnight within an area designated by GPD. No platforms shall be allowed within the RWUMP area.

§6114. Commercial Operations. (a) Operation and Water Safety.

(1) In order to operate a commercial MWRC business within a RWUMP area, a Recreation Vendor Permit must be obtained from the DPR. Those commercial operators possessing, at the date of adoption of these rules and regulations, a valid business license as required in section (b)(1) of this section and who have all other required permits and/or clearances required for this type of activity by these rules and regulations, may apply for and shall be given priority consideration for issuance of the Recreation Vendor Permit. Should there be more qualified applicants for a Recreation Vendor Permit to operate within a RWUMP area than there are designated courses, then a lottery shall be conducted by the DPR to determine the issuance of permits and to establish a waiting list. Priority shall be given to operators actively operating as of October 1, 1990.

(b) To qualify for a Recreation Vendor Permit to operate within a designated motorized water- craft course the applicant must supply acceptable evidence to DPR that the following requirements:

(1) The applicant for a Recreation Vendor Permit must possess a valid business license from the Department of Revenue and Taxation (DRT) as required by 21 GCA §62101 et seq.

(2) All vessels owned and operated by a Recreation Vendor Permit holder shall be registered as required by 10 Guam Code Annotated §69000 et seq.

(3) Prior to the issuance of the Recreation Vendor Permit, the applicant must have in place, and shall maintain at all times, liability insurance with a minimum coverage of \$100,000 per MWRC.

(4) An applicant for a Recreation Vendor Permit must provide proof that at least one employee of the business meets the minimum qualifications for a Water Safety Coordinator, as set forth in (c) of this section.

(c) At all times of operation there shall be on the course a Water Safety Coordinator (WSC) who shall be identifiable by wearing a colored T-Shirt in international orange with the letters WSC which shall be at least six (6) inches in height on the front and back of the shirt. The WSC shall meet the following requirements:

(1) Possession of a current Red Cross Emergency Water Safety Certificate showing completion of a course taught in the English language.

(2) Possession of a current Red Cross Standard First Aid card showing completion of a course taught in the English language.

(3) Possession of a current American Heart Association or Red Cross CPR certification.

(4) Possession of a certificate issued by the Guam Police Department showing that the person has successfully completed an orientation course offered by GPD including, but not limited to, water safety, oceanographic conditions, local ecology, vessel familiarity and operation and the United States Coast Guard Rules of the Road.

(d) There shall be available at all times during hours of operation a vehicle available for responding to emergencies on the water.

§6115. Priority and Procedures in the Issuance of Recreation Vendor Permits. The following regulations are applicable to all soliciting, advertising, rentals and sales in RWUMP areas:

(a) Definition

(1) *Commission* means the Parks and Recreation Commission.

(2) *Department* means the Department of Parks and Recreation.

(3) *Director* means the Director of Parks and Recreation.

(4) *Vendor Licensed* owner of commercial MWRC operations.

(5) *RWUMP* means the Recreation Water-Use Management Plan.

(6) *Recreation Vendor Permit* means a permit issued by the Department of Parks and Recreation for commercial operations.

(b) It shall be unlawful for any person to operate a MWRC within a RWUMP area except upon permission therefore first obtained from the Director.

(c) All MWRC vendors with authorized permits shall be allowed to continue to operate from year to year in the RWUMP area already designated in their permit. Only one Recreation Vendor permit shall be issued per business license. The vendor receiving a permit shall only be allowed one Recreation Vendor permit per year. Permits are non-transferable, whether by sale, exchange, sub-lease assignments, gift, or any other means.

(d) Any person found operating commercially in a RWUMP area without an authorized Recreation Vendor permit shall be charged with 9 GCA Section 37.30 (Criminal Trespass).

(e) No vendor shall use sound amplification devices for the purposes of soliciting advertising or selling in any RWUMP area without prior written authorization from the Director or his authorized representative.

(f) Application for Recreation Vendor permits must be filed with the Director in the form prescribed by the Director or his authorized representative.

(g) All applications for Recreation Vendor permits shall be accompanied by the following:

(1) The appropriate business license as provided by Title XVII, Government Code of Guam;

(2) A yearly user's fee of \$1,000.00 for July 1 to June 30 shall be payable to the Department of

Parks and Recreation. Upon issuance of a Recreation Vendor Permit, a \$1,000.00 fee is required. The entire fee shall be payable on or before June 30. If issued a Recreation Vendor Permit, no portion of the fee shall be refundable. Failure to renew a permit and pay the entire fee by August 31st, shall void a renewal of applicant's permit from the prior obligation of Section 3.

(h) Each vendor must display at all time a vendor identification bearing his or her name issued by the Director.

(i) Permits shall be renewable on an annual basis. Permit will start on July 1 of each year and expire on June 30, of the following year.

(j) Vendors shall confine their operations to the specific course assigned to them by the Director or his representative.

(k) All vendors shall comply with government of Guam land use controls, including zoning, seashore protection, building code, and federal public law and outdoor recreation grant land use restrictions where applicable.

(l) Revocation of Recreation Vendor Permit

(1) For violation of these or other relevant rules, regulations, or statutes, the vendor may have his Permit suspended or revoked after a hearing conducted in accordance with the Administrative Adjudication Act.

(2) Under exceptional circumstances, to preserve peace and order or to avert damages or destruction to property, the Director may effect an immediate temporary suspension of a vendor's permit, provided that procedures are begun within two working days to conduct a hearing in accordance with the provisions of the Administrative Adjudication Act. The burden of proving the necessity of such an exceptional suspension shall be upon the Director.

(m) Notwithstanding any other regulation promulgated by the Director, the Director is authorized to issue permits for special activities subject to the following provisions:

(1) No permit shall be valid for longer than 10 days.

(2) The fee shall be \$50.00 for the three days. There will be a \$15.00 charge per day for days thereafter, not to exceed 10 days. This applies to non-profit organizations who qualify for exemption under 11 GCA §26203(b), (c), (d) and (e).

(3) The fee shall be \$100.00 for the first three days. There will be a \$20.00 charge per day for days thereafter not to exceed ten (10) days for profit organizations.

(n) The Director, with the approval of the Commission, may include new MWRC areas in these rules, under whatever section is deemed appropriate, so long as such inclusion does not violate existing laws.

§6116. Severability. If any part or section of these regulations is declared to be invalid by a court of law or administrative tribunal for any reason, the rest of these regulations shall not be affected thereby and shall remain valid and enforceable.