



DEPARTAMENTO DE ESTADO

Número: **8122**
Fecha: **19 de diciembre de 2011**
Aprobado: **Hon. Kenneth D. McClintock**
Secretario de Estado

Por: **Eduardo Arosemena Muñoz**
Secretario Auxiliar de Servicios

**REGULATION FOR THE PROMOTION AND DEVELOPMENT OF THE
CRUISE SHIP INDUSTRY IN PUERTO RICO**

COMMONWEALTH OF PUERTO RICO

PORTS AUTHORITY

REGULATION FOR THE PROMOTION AND DEVELOPMENT OF THE CRUISE SHIP INDUSTRY IN PUERTO RICO

ARTICLE 1 - GENERAL PROVISIONS

Section 1.1 - Legal Authority

This Regulation is promulgated by the Board of Directors of the Puerto Rico Ports Authority pursuant to Act No. 113 of July 4, 2011, known as the Act for the Promotion and Development of the Cruise Ship Industry in Puerto Rico; Act No. 125 of April 7, 1942, as amended, known as the Act of the Puerto Rico Ports Authority; and pursuant to Act No. 170 of August 12, 1988, as amended, known as the Uniform Administrative Proceedings Act.

Section 1.2 - Short Title

This Regulation shall be known as the "Regulation for the Promotion and Development of the Cruise Ship Industry in Puerto Rico."

Section 1.3 - Definitions

The following terms shall have the meanings that are attributed to them below, except where expressly stated, or unless the context clearly indicates otherwise:

1. **Act** - shall refer to Act No. 113 of July 4, 2011, known as the Act for the Promotion and Development of the Cruise Ship Industry in Puerto Rico.
2. **Authority** - refers to the Puerto Rico Ports Authority, a public corporation organized and existing under Act No. 125 of May 7, 1942, as amended, known as the Act of the Puerto Rico Ports Authority, which owns and operates the Port of San Juan.

3. **Cruise or Passenger Ship** - shall mean any ship engaged in the transportation of passengers, with capacity for at least twelve (12) passengers, cabins for the lodging of such passengers, that offer cruise or tour services, and which do not carry cargo.
4. **Cruise Companies Incentive** - refers to such sums to be satisfied under terms of this Regulation by the Authority to the Cruise Owner for every passenger paying the full amount of passenger fee in prevailing Port Tariff.
5. **Cruise Owner** - shall be a cruise line or legally organized entity that owns or operates one or more cruise ships or cruise lines that visit any of the Ports of Puerto Rico as one of their destinations, including such cruise lines affiliates, subsidiaries, and their operating brands which may be considered a single cruise owner.
6. **Homeport Frequency Incentive** - shall mean such sum to be determined and satisfied per passenger by the Authority to cruise ships that use any Port of Puerto Rico as a home port.
7. **Time in Port Incentive for Cruise of Passenger Ships in Transit** - shall mean such per passenger sum to be determined and satisfied by the Authority to cruise ships in transit that dock and remain in any Port of Puerto Rico for an amount of time set forth in the Act and this Regulation and pay the full amount of the passenger fee or head tax assessed in the prevailing Port Tariff.
8. **Passenger** - shall mean any natural person who travels aboard a cruise or passenger ship which sets sail or visits the Ports of Puerto Rico. This definition shall not apply to cruise ships personnel or crew that may from time to time use the port facilities in Puerto Rico, except that cruise owner employees who travel aboard the vessel for leisure and are not directly employed.
9. **Passenger Fee** - refers to such fee assessed from time to time by the Ports of Puerto Rico through its Port Tariff to every passenger that embarking from or debarking.
10. **Ports Authority Fund** - refers to the Ports Authority Fund for Incentives to the Cruise Ship Industry created pursuant to Article 3 of the Act.
11. **Ports of Puerto Rico** - shall mean the harbor and public marine facilities and port services for tourists and passengers, including the Port of San Juan, the Port of the Las Americas, in Ponce and the Mayagüez Maritime Port.

12. Vessel Manifest - means the statement submitted by the vessel owner or vessel agent to the different port facilities. The vessel manifest statement is supported, but not limited to a list of passengers including identity facts like name, date of birth, nationality, gender, among other information.

Section 1.4 - General Purposes

This regulation is promulgated with the purpose of establishing all the rules and norms related to the incentives to be disbursed from the Ports Authority Fund pursuant to Articles 5(a)(1), 5(a)(2) and 5(a)(4) of the Act.

The main objectives pursued by the Government of Puerto Rico through the adoption of incentives for the cruise ship industry are the following:

- a. To increase the number of passengers in cruise ships that visit the ports of Puerto Rico;
- b. To promote tourist consumption and investment in Puerto Rico's economy; to generate and increase benefits to be received by the different economic sectors of Puerto Rico; and
- c. Offer equal incentives to all operators of cruise ships in order to maximize the promotion of Puerto Rico as a tourist destination.

Section 1.5 - Scope and Applicability

This regulation shall apply to all the procedures for requesting and granting incentives to be disbursed from the Ports Authority Fund pursuant to Articles 5(a)(1), 5(a)(2) and 5(a)(4) of the Act.

ARTICLE 2 - INCENTIVE FOR CRUISE SHIPS COMPANIES

Pursuant to Article 5(a)(1) of the Act, for arrivals to ports in Puerto Rico managed by the Authority, a Cruise Owner shall be entitled to an incentive in the form of a discount to the applicable Passenger Fee of thirteen dollars twenty five cents (\$13.25) equal to four dollars and ninety five cents (\$4.95) per passenger for the first one hundred and forty thousand (140,000) passengers arriving at the Ports of Puerto Rico in vessels operated by Cruise Owner during a 12-month period. For each passenger in excess of one hundred and forty thousand (140,000), the incentive shall be equal to seven dollars and forty five cents (\$7.45) per passenger. If the

passenger fee is an amount other than thirteen dollars twenty five cents (\$13.25), the lowest fee will be applied and the incentive will be reduced in equal proportion. Cruise Owner shall also have the option to pay applicable fee per passenger in its entirety and request the applicable incentives through a refund. In this case, the incentives must be claimed through an invoice pursuant to Article 5 of this Regulation.

For arrivals to the Las Americas Port managed by the municipality of Ponce, the Mayagüez Maritime Port managed by municipality of Mayagüez, or any other port in Puerto Rico not managed by the Authority, Cruise Owners shall be entitled to an incentive equal to the discounts specified above. The incentives shall be provided as a refund and must be claimed directly to the Authority through an invoice pursuant to Article 5 of this Regulation.

ARTICLE 3 - HOMEPORT FREQUENCY INCENTIVE

Pursuant to Article 5(a)(2) of the Act, Cruise Owner shall be entitled to an incentive equal to one dollar (\$1.00) per passenger for each of the Cruise Owner's first twenty (20) trips initiated in any of the Ports of Puerto Rico in a twelve month period and two (\$2.00) dollars per passenger for each trip initiated in Puerto Rico in excess of twenty one (21). When the Cruise Owner exceeds one hundred twenty (120) trips initiated in Puerto Rico in a twelve month period, Cruise Owner shall be entitled to an additional two dollars (\$2.00) per passenger for each trip initiated in Puerto Rico after the sixtieth (60th) trip for a total incentive of four dollars (\$4.00) per passenger or each trip initiated in Puerto Rico after the sixtieth (60th) trip .

ARTICLE 4 - TIME IN PORT INCENTIVE FOR CRUISE OR PASSENGER SHIPS IN-TRANSIT

Pursuant to Article 5(a)(4) of the Act, Cruise Owner shall be entitled to an incentive equal to one dollar (\$1.00) per passenger aboard every cruise ship operated by the given Cruise Owner in transit that remains in the Ports of Puerto Rico for a period of at least eight (8) consecutive hours and pays the applicable tariff at the port during the entire fiscal year.

ARTICLE 5 - INCENTIVE PAYMENTS

The incentives provided under Article 5(a)(1), Articles 5(a)(2) and 5(a)(4) of the Act that were not claimed through a discount to the applicable Passenger Fee shall be disbursed by the

Authority to Cruise Owner in a term not exceeding thirty (30) calendar days after the Authority receives an original invoice from Cruise Owner requesting the payment. Such invoice shall be certified and signed in original by an authorized official of the Cruise Owner. The Authority will confirm the information provided in the invoice with the vessel manifest. If the Authority has any objection regarding any item included in the invoice, this shall not be reason for the Authority to stop the payment of the undisputed items. The Authority will notify in writing to the Cruise Owner the results of the disputed items in a period of thirty (30) calendar days. The Executive Director of the Ports Authority or its designee shall evaluate all invoices submitted by Cruise Owners under this Article 5 and shall approve or deny the disbursement of the incentives in accordance with the terms of the Act and this Regulation. The approval will apply exclusively to the incentives claimed in the specific invoice. All disbursements of incentives shall be subject to availability of funds.

With respect to the Las Americas Port, the Mayagüez Maritime Port, and any other port in Puerto Rico not managed by the Ports Authority, incentives will be disbursed by the Authority upon receipt of the Cruise Owner's vessel manifest certified by a representative of the port.

The Authority shall reserve the right to request additional documentation deemed necessary in order to satisfy the incentive.

ARTICLE 6 - CONSOLIDATION OF APPLICATIONS

If a Cruise Owner were eligible for more than one of the incentives issued by the Ports Authority Fund pursuant to the Act and this Regulation, a single invoice may be submitted to the Ports Authority for all such applicable incentives. However, the Ports Authority shall make independent determinations for the approval of each incentive. The grant of any of the incentives provided by the Ports Authority Fund under the Act and this Regulation shall not imply the approval of any other incentive available under the Act.

ARTICLE 7 - MISCELLANEOUS PROVISIONS

Section 7.1 - Notices

All notices pertaining to this regulation shall be in writing and shall be transmitted either by personal hand delivery or through the United States Postal Service.

Section 7.2 - Rules of Interpretation

The provisions of this regulation shall be liberally interpreted in order to allow the Authority to carry out its duties and to ensure that all the objectives of the Act for the Promotion and Development of the Cruise Ship Industry of Puerto Rico and this regulation are achieved.

Section 7.3 - Civil Actions

The Authority will be entitled to demand the return of any incentive grant obtained or disbursed in violation of the provisions of this Regulation. Any amount recovered under this Section will be returned to the fund created by the Act.

Section 7.4 - Grievances/Jurisdiction

Any claim or grievance filed by any party in connection with this regulation shall commence with an adjudicative procedure pursuant to Act No. 170 of August 12, 1988, as amended. The Ports Authority shall have primary jurisdiction of the grievance and complaint.

Section 7.5 - Amendments

This Regulation may be amended in accordance to the procedures laid down in Act No. 170 of August 12, 1988, as amended.

Section 7.6 - Severability

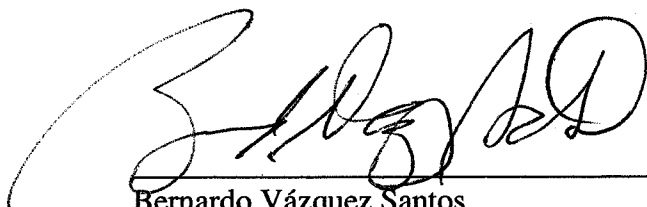
If any article, provision, part or section of this Regulation, or any of its applications, are declared by a court of competent jurisdiction to be invalid, void or unconstitutional, all other remaining articles, provisions, parts or sections of this Regulation, and their applications, shall continue to be valid and in full force and effect.

ARTICLE 8 - EFFECTIVENESS, REPEAL AND APPROVAL

This Regulation shall become effective thirty (30) days after the same is filed at Department of State of the Commonwealth of Puerto Rico.

When this Regulation comes into full force and effect, all other regulations, rules or procedures of the Authority that are in conflict or inconsistent with this Regulation shall be automatically modified, amended or, if necessary, repealed to the extent necessary to avoid the conflict or conform the inconsistency.

Approved in San Juan, Puerto Rico in December 15TH, 2011.



Bernardo Vázquez Santos
Acting Executive Director



CERTIFICACIÓN

Yo, Hilda M. Rodríguez Manzano, mayor de edad, casada y vecina de Toa Alta, Puerto Rico, en mi carácter de Subsecretaria de la Junta de Directores de la Autoridad de los Puertos de Puerto Rico, una corporación debidamente organizada y existente bajo las leyes de Puerto Rico, certifico que:

La Junta de Directores aprobó mediante Reunión Ordinaria el 13 de diciembre de 2011, Resolución Núm. 2011-042 donde se autoriza al Director Ejecutivo Interino de la Autoridad de los Puertos o al funcionario que él delegue a adoptar el Reglamento para la promoción y el desarrollo de la industria de barcos cruceros de Puerto Rico, y el Informe de la Oficial Examinadora, Lcda. Luisa M. Torres Ramírez, que acompaña esta Resolución. La Autoridad se reserva el derecho de enmendar el Reglamento aquí establecido, sí durante el periodo de efectividad de esta Resolución ocurrieran cambios significativos que ameriten enmiendas.

PARA QUE ASI CONSTE, expido la presente que firmo y estampo con el sello oficial de la Autoridad de los Puertos, hoy 14 de diciembre de 2011, San Juan, Puerto Rico.

Hilda M. Rodríguez Manzano
Subsecretaria
Junta de Directores



**JUNTA DE DIRECTORES
AUTORIDAD DE LOS PUERTOS DE PUERTO RICO
SAN JUAN, PUERTO RICO**

RESOLUCIÓN NÚMERO 2011- 042

El Lcdo. Bernardo Vázquez Santos, Director Ejecutivo Interino, presentó el siguiente asunto ante la consideración de la Junta de Directores:

SOLICITUD PARA AUTORIZAR AL DIRECTOR EJECUTIVO INTERINO DE LA AUTORIDAD DE LOS PUERTOS A ADOPTAR EL REGLAMENTO PARA LA PROMOCIÓN Y EL DESARROLLO DE LA INDUSTRIA DE BARCOS CRUCEROS DE PUERTO RICO.

El Lcdo. Bernardo Vázquez Santos, Director Ejecutivo Interino, de la Autoridad de los Puertos (Autoridad), indica a la Junta de Directores de la Autoridad de los Puertos, a adoptar un Reglamento para poner en práctica la regulación para la promoción y el desarrollo de la industria de barcos cruceros de Puerto Rico.

De acuerdo a lo antes indicado, la Autoridad determina la necesidad de implementar el Reglamento con vigencia desde el 1ro de enero de 2012 al 30 de junio de 2014.

La Autoridad publicó avisos públicos notificando la intención de establecer el nuevo Reglamento. El Reglamento propuesto estuvo disponible al público en general para su examen y revisión, y se invitó al público a someter comentarios por escrito y asistir a la vista pública celebrada el 21 de octubre de 2011.

La determinación final para establecer el nuevo Reglamento se hizo cumpliendo con el procedimiento legal correspondiente.

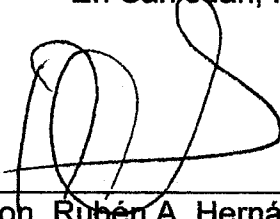
Junto con esta Resolución se acompaña y se hace formar parte integral de la misma, el informe de la Oficial Examinadora, Lcda. Luisa M. Torres Ramirez, quien presidió la vista pública.

En atención a los méritos de los argumentos expuestos por el Director Ejecutivo Interino, la Junta de Directores aprobó la siguiente:

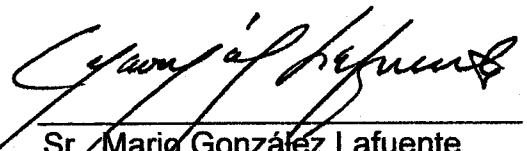
RESOLUCIÓN NÚMERO 2011- 042

RESUELVA: Autorizar al Director Ejecutivo Interino de la Autoridad de los Puertos o al funcionario que él delegue a adoptar el Reglamento para la promoción y el desarrollo de la industria de barcos cruceros de Puerto Rico, y el Informe de la Oficial Examinadora, Lcda. Luisa M. Torres Ramírez, que acompaña esta Resolución. La Autoridad se reserva el derecho de enmendar el Reglamento aquí establecido, si durante el periodo de efectividad de esta Resolución ocurrieran cambios significativos que ameriten enmiendas.

En San Juan, Puerto Rico, a 13 de diciembre de 2011.



Hon. Rubén A. Hernández Gregorat
Presidente
Junta de Directores



Sr. Mario González Lafuente
Secretario
Junta de Directores



**BOARD OF DIRECTORS
PUERTO RICO PORTS AUTHORITY
SAN JUAN, PUERTO RICO**

RESOLUTION NUMBER 2011- 042

Bernardo Vázquez Santos, Esq., Acting Executive Director submitted the following matter for consideration and approval by the Board of Directors:

REQUEST TO AUTHORIZE THE ACTING EXECUTIVE DIRECTOR OF THE PUERTO RICO PORTS AUTHORITY TO ADOPT THE REGULATION FOR THE PROMOTION AND THE DEVELOPMENT OF THE CRUISE SHIP INDUSTRY OF PUERTO RICO.

Bernardo Vázquez Santos, Acting Executive Director, of the Puerto Rico Ports Authority (The Authority), explained to the Board of Directors, to adopt the new Regulation for the promotion and the development of the cruise ship industry of Puerto Rico.

Pursuant to the aforementioned reasons the Authority has determined implementing the new Regulation with an effective date from January 1, 2012 to June 30, 2014.

The Authority published public notices of the Authority's intention to establish the new Regulation. The new Regulation was made available for public review and invited the general public to submit written comments and be present at the public hearing held on October 21, 2011.

The final determination for establish the new Regulation complied with the legal procedure.

Attached to this Resolution is the Hearing Officer Report, Luisa M. Torres Ramírez, Esq., who presided the public hearing.

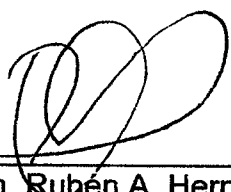
Having evaluated the arguments made by the Acting Executive Director, the Board of Directors approved the following:

RESOLUTION NUMBER 2011- 044

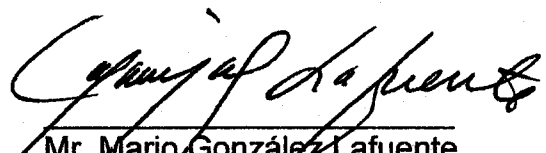
WE HEREBY RESOLVE: To authorize the Acting Executive Director of the Puerto Rico Ports Authority or his delegate to adopt the new Regulation for the promotion and development of the cruise ship industry of Puerto Rico, and to approve the report prepared by the Hearing Officer, Luisa M. Torres Ramírez, Esq.

The Authority reserves the right to amend the new Regulation established hereunder, if during the period of effectiveness of this Resolution significant changes occur that justify necessary amendments.

In San Juan, Puerto Rico, on this December 13, 2011.



Hon. Rubén A. Hernández Gregorat
Chairman
Board of Directors



Mr. Mario González Lafuente
Secretary
Board of Directors