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Secretary of State

firm:



Department of State
Government of Puerto Rico



**PUERTO RICO PORTS AUTHORITY
(PRPA)**

**REGULATION TO AMEND MARITIME TARIFF NO. M-1-8
(Reg. No. 8879 of December 22, 2016)**

**GOVERNMENT OF PUERTO RICO
PUERTO RICO PORTS AUTHORITY**

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REGULATION TO AMEND MARITIME TARIFF NO. M-1-8
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SECTION 1-LEGAL BASIS AND PURPOSE

(A) The legal basis of this regulation is (i) Act. No. 125 of May 7, 1942, as amended, known as the Puerto Rico Ports Authority ("PRPA"), 23 L.P.R.A. § 335 *et seq.*, and (ii) the provisions of Act No. 38-2017, as amended, known as the Puerto Rico Uniform Administrative Procedures Act, 3 L.P.R.A. § 9601 *et seq.*

(B) Act No. 142 of May 7, 1942, as amended, grants the PRPA all rights and powers necessary to, among others, manage marine transportation facilities and to "make available the benefits thereof in the most extensive and least costly manner, thereby promoting the general welfare and increasing commerce and prosperity." 23 L.P.R.A. § 336. Specifically, Act. No. 142 mandates the use of the PRPA's facilities and services "in the most ample (*sic*) and varied manner that is financially feasible" and, to that end, empowers the PRPA's Board of Directors to "make changes to the general rate structure" of such regulations. *Id.* § 336(l)(1)(c).

On December 22, 2016, following the advice and consent of its Board of Directors, the PRPA exercised such powers to promulgate Regulation No. M-1-8 (registered as Reg. No. 8879). As relevant here, Section 14.1 of Regulation No. M-1-8 establishes the applicable dockage fee for cruise vessels docking at PRPA-controlled ports. Today, cruise vessels must pay the PRPA a dockage fee at a rate of \$.0739 per ton per day, or fraction thereof.

The design of this rate responded to a then-straightforward premise. Because commercially operational cruise ships strive to dock for as little time as possible, it made sense for the PRPA to formulate a rate that would allow for maximum revenue under such short periods.

However, much has changed since the onset of the COVID-19 pandemic. The resulting economic crisis has led to a virtual halt of commercial cruise ship operations on a worldwide scale, thus creating a need for -and a market for- the medium to long-term dockage of laid-up cruise vessels. As used in the maritime lexicon, a "laid-up" cruise vessel refers to the prolonged docking of a cruise vessel which has temporarily been taken out of profitable service due to lack of charter, as part of its owner's or operator's efforts to reduce operational overhead.

As a result, many countries, including our neighboring Caribbean islands, have been quick to provide competitive dockage fees for laid-up cruise vessels. In these trying times of financial and operational uncertainty, the PRPA believes it, too, should enter the race to provide affordable and competitive rates in this niche market. However, the dockage fees that are currently established under Regulation No. M-1-8 prove to be an obstacle to such efforts.

Accordingly, on September 22, 2020, the PRPA Board of Directors issued Resolution No. 2020-029, favoring amending with immediate effect Regulation No.

M-1-8 to include a new subsection 14.1.2 and provide a temporarily discounted rate for laid-up cruise vessels, which shall be determined by the Board of Directors on a case-by-case basis.

Pursuant to the PRPA's initiative, on September 24, 2020, the Governor of Puerto Rico, Hon. Wanda Vázquez-Garced, issued a letter certifying that the public interest requires that the instant amendment to Regulation No. M-1-8 take effect without delay. Additionally, on November 13, 2020, the Financial Oversight and Management Board for Puerto Rico issued a letter approving the aforesaid amendment to Regulation No. M-1-8.

SECTION 2-AMENDMENT

Section 14.1 of the Puerto Rico Ports Authority's Maritime Tariff No. M-1-8 (Reg. No. 8879 of December 22, 2016), which sets the rates and fees for passenger vessels, is hereby amended to include subsection 14.1.2, which shall state the following:

14.1.2 Discounted Dockage Rate for Laid-up Cruise Vessels

Notwithstanding the applicable dockage rate for cruise vessels established in section 14.1, the PRPA may, in its full discretion and with the advice and consent of its Board of Directors, provide a temporarily discounted rate for laid-up cruise vessels. For purposes of the relief established herein, the term "laid-up cruise vessel" shall refer to the prolonged docking of a cruise vessel, as defined in section 1.17, which has temporarily been taken out of profitable service due to lack of charter, as part of its owner's and/or operator's efforts to reduce operational overhead.

Any discount provided under this subsection shall consist of a percentage reduction, determined by the Board of Directors on a case-by-case basis, of the original dockage fees set in section 14.1.

SECTION 3-EFFECTIVENESS, DEROGATION, AND APPROVAL

This regulation shall become effective upon being filed with the Puerto Rico Department of State and derogates any other existing provision on this matter that may be contrary to or inconsistent with the provisions herein.

In San Juan, Puerto Rico, this ____ day of November 2020.



Joel A. Piza Batiz, Esq.
Executive Director
Puerto Rico Ports Authority