

MEMORANDUM CIRCULAR NO. 188
Series of 2003

TO : ALL SHIPPING COMPANIES, SHIPOWNERS AND SHIP OPERATORS

SUBJECT : REVISED RULES ON THE MANDATORY SUBMISSION OF ANNUAL REPORT OF FINANCES AND OPERATIONS

Pursuant to the provisions of Section 17(h) of the Public Service Act (PSA), as amended and repealing *in toto* Memorandum Circular No. 49-B, the following revised rules governing the mandatory submission of Annual Report of Finances and Operations are hereby prescribed:

I. OBJECTIVE:

This Circular is intended to institute greater transparency in the recording of shipping and cargo handling operations in the financial accounts of domestic water transport providers.

II. COVERAGE:

The provisions of this Memorandum Circular shall apply to all shipping companies, shipowners, and operators who are grantees of Certificates of Public Convenience (CPCs) or holders of Provisional Authorities (PAs), except :

1. Those exempted from the purview of the Public Service Act as amended, and therefore not required to secure CPC or PA;
2. Operators/companies that have ceased operation(s) for the whole covered period of one (1) year or more and have no intention of reviving its service due to decommissioned services, bankruptcy, sale and transfer of ownership or other reasons amounting to permanent cessation of operation need not submit the required Annual Report; provided however, that within 15 days after cessation, MARINA is duly notified therefor in writing for monitoring purposes: and provided further, that if operation ceases during the year or after a fraction of the covered year, the operator shall still be required to submit its Annual Report, corresponding to the fraction of time of the year prior to its final or temporary stoppage. Correspondingly, revival of services before 31 December of the year shall likewise be reflected in the Annual Report.
3. Operators/companies who have temporarily ceased operations for one (1) year or more but who have manifested their intention to continue operations after the vessel(s) or the fleet was laid –up, reconstructed, repaired, drydocked, renovated or their operations are affected with legal and financial problems, among other

reasons, are still required to submit the Annual Report during the unserved year/s, containing only a financial report reflecting depreciation/amortization/maintenance expenses. Further, the cargo and passenger traffic report should indicate the period of non-operation.

III. PRESCRIBED FORM:

The requisite Annual Report shall be accomplished completely and appropriately in the revised form and format, specifically for the Annual Financial Report and Operations, prescribed by this Authority and which is readily available for a fee at the Central Office or at any of the Regional Offices. Specific forms are provided for single proprietorship, partnership, and corporation.

The Annual Report must be examined, verified, and certified by an independent certified public accountant.

IV. DUE DATE OF SUBMISSION:

The Annual Report of the immediately preceding year shall be submitted on or before June 30 of each year to the MARINA at the Central Office or at any of its Regional Offices, whose territorial jurisdiction covers the principal office of the shipping entities.

V. PENALTIES:

1. Payment of the administrative penalties and/or fine shall not be accepted unless there is proof that the Respondent has submitted the subject Annual Report.
2. Submission of the Annual Report after the due date provided herein even prior to demand, shall not bar and preclude the MARINA from imposing the proper penalty.
3. Consecutive and successive omission/failure to submit the Annual Reports shall be deemed as blatant and contumacious violation of the provisions of this Circular and the pertinent provisions of the Public Service Act, as amended, and shall be subject to a penalty.
4. Late, no submission, and submission of incomplete Annual Report and/or false/fraudulent entries therein are considered violations of this Circular and shall be subject to penalties.
5. The penalties provided under MARINA Memorandum Circular No. 120 or its subsequent amendments shall be imposed for any violation of or failure to comply with the above requirements.

VI. PROCEEDINGS:

Proceedings for the violation of any of the provisions of this Circular shall be summary in nature as provided under Memorandum Circular No. 74-A or its subsequent amendment.

VII. REPEALING CLAUSE:

Memorandum Circular No. 49-B is hereby expressly repealed in toto and shall be entirely superseded by this Circular.

VIII. EFFECTIVITY:

This Memorandum Circular shall take effect fifteen days after its publication in a newspaper of general circulation in the Philippines.

09 July 2003 at Manila, Philippines.

BY AUTHORITY OF THE BOARD:

(Sgd.) ATTY. OSCAR M. SEVILLA
Administrator

SECRETARY'S CERTIFICATE

This is to certify that the foregoing Memorandum Circular No. 188 was approved by the MARINA Board on 09 July 2003.

(Sgd.) ATTY. GLORIA V. BAÑAS
Corporate Board Secretary

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