

MARINA CIRCULAR NO. 07

Series of 2009

TO : ALL SHIPOWNERS OR OPERATORS OF REGISTERED VESSELS, LAY-UP AGENTS & ALL CONCERNED

SUBJECT : OMNIBUS RULES ON THE LAY-UP OF VESSELS

Pursuant to Presidential Decree No. 474, EO 125/125A and Letter of Instruction No. 341 (LOI 341) dated 28 November 1975 mandating the Maritime Industry Authority (MARINA) to declare vessel lay-up centers, oversee and coordinate with the various activities/programs of government offices relative to the supervision and regulation of the lay-up centers in the Philippines, the following rules are hereby adopted:

I. OBJECTIVES:

This Circular shall prescribe the general policy, rules and procedures for the following:

1. the declaration of lay-up centers;
2. accreditation of lay-up agents; and
3. issuance of lay-up permit and departure clearance

II. COVERAGE:

This Circular shall apply to:

1. All persons, corporations, firms and entities engaged or intending to engage in the business of vessel lay-up;
2. All foreign vessels due for lay-up; and
3. All possible centers or sites which the MARINA may find suitable for vessel lay-up.

III. DEFINITION OF TERMS:

1. **Certificate of Accreditation** - refers to the document issued to a lay-up agent upon compliance with the requirements under this Circular.
2. **Principal Officers** - are those occupying positions in the company such as general manager, chief operating officer, marine superintendent or similar positions that require the daily supervision and management of marine and business activities.

3. **Lay-up Center** - refers to the anchorage areas in Malalag Bay, Pujada Bay Mayo Bay and Bunawan Bay within Davao Gulf, designated by the Philippine government for use as lay-up sanctuaries for unemployed foreign vessels, and other areas declared by the MARINA.
4. **Vessel Lay-up** - refers to foreign vessel not actively employed availing the facilities and sanctuary inside the lay-up center.
5. **Vessel Lay-up Agent** - refers to a person or entity duly accredited under this Circular.

IV. GENERAL PROVISIONS:

1. Only anchorage areas in Davao Gulf, particularly Malalag Bay, Bunawan Bay, Pujada Bay, Mayo Bay and other lay-up sites declared by MARINA shall be used as lay-up centers of foreign vessels.
2. The Accreditation under this Circular shall serve as a pre-requisite to the grant of lay-up permits and departure clearances to be issued by MARINA.
3. Before a foreign vessel can be laid-up in any of the declared lay-up center, the services of a lay-up agent must be procured.
4. All foreign vessels due for lay-up shall be represented by a designated accredited lay-up agent for the duration of the lay-up period.
5. All foreign vessels due for lay-up are required to comply with the procedural guidelines for the use of lay-up centers in the Philippines as submitted by the concerned accredited lay-up agent.
6. No foreign vessel shall be laid-up or leave from the vessel lay-up center without prior permit from the MARINA which will be issued to the lay-up agent.
7. During the duration of the lay-up period, MARINA may at any reasonable time, conduct on-site survey or inspection for general monitoring purposes in coordination with the vessel lay-up agent's representative.
8. The active participation of the Bureau of Immigration (BI), Philippine Ports Authority (PPA), Bureau of Customs (BUCUS), Philippine Coast Guard (PCG) and Bureau of Quarantine (BQ) shall be requested by MARINA through proper coordination more specifically in the easing up or relaxation of normal administrative requirements relative to the entry, lay-up and departure of foreign vessels and their crew to and from the

lay-up centers taking into account the interests of national safety and security.

9. The Authority shall coordinate with the Department of Environment and Natural Resources relative to the identification and declaration of lay-up areas in consideration of the marine environmental protection.

V. SPECIFIC PROVISIONS:

1. DECLARATION OF LAY-UP CENTERS

The declaration of an area by the MARINA as a lay-up center commences upon the information gathered or received and verified by the MARINA containing the data below:

- 1.1. The area is out of the typhoon belt or, in the alternative, ships can be sufficiently protected from storm or typhoon by natural shelter or cove.
- 1.2. Depth of water is 95 feet or deeper
- 1.3. Ocean current is minimal
- 1.4. Rise and fall of tide is approximately 4 feet or, in the alternative with predictable movement
- 1.5. Anchorage and approach is free from hazardous underwater obstacles
- 1.6. The area is clear of shipping lanes and it has an open roadstead anchorages
- 1.7. The area is sheltered from all directions by surrounding hills
- 1.8. Water is pollution free.

Based on verification made by the MARINA it shall declare the area as lay-up center and subsequently issue MARINA Advisory, copy furnished the MARINA Board.

2. ACCREDITATION OF LAY-UP AGENTS

2.1. Responsibilities of the Lay-up Agent

- 2.1.1. The Vessel Lay-up Agent shall coordinate with the MARINA in putting up of necessary lay-up facilities and logistics, prior to operation.
- 2.1.2. The Vessel Lay-up Agent shall assume full responsibility in behalf of the foreign vessel principal in all transactions with government instrumentalities and consequently coordinate with all concerned government agencies relative to the request for foreign vessel lay-up.

- 2.1.3. The Vessel Lay-up Agent shall only use the designated area by MARINA as specified in the lay-up plan. Additional lay-up areas shall be approved by MARINA.
- 2.1.4. The Vessel Lay-up Agent shall at all times maintain Vessel Lay-up safety and security measures to protect the marine environment and ensure the safety of other vessels navigating within the designated area.
- 2.1.5. The Vessel Lay-up Agent shall provide full security and deploy security guards onboard during the duration of the vessel lay-up.

2.2. Filing Of Application

- 2.2.1. Applications for accreditation shall be filed with the MARINA Central Office or in the MARINA Regional Office with jurisdiction over the declared lay-up center.

2.3. Qualification Requirements For Accreditation

2.3.1. Nature of Business Undertaking

2.3.1.1. For corporation and partnerships, the laying-up of vessel shall be reflected in the Articles of Incorporation or Articles of Partnership and duly registered with the Securities and Exchange Commission (SEC).

2.3.1.2. For single-proprietorships, one of the major activities or concerns shall be laying-up of foreign vessels and duly registered with the Department of Trade and Industry (DTI).

2.3.2. Management Competence

2.3.2.1. The vessel lay-up agent shall have its principal officer or officers with at least one (1) year maritime-related work experience.

2.3.2.2. The vessel lay-up agent must have adequate employed personnel for coordination with various government offices and local government units relative to permits or clearances attendant to foreign vessel lay-up, as well as required arrangement.

2.3.3. Technical Capability

2.3.3.1. The applicant must have at its disposal tugboats, mooring buoys, communication equipment and safety equipment and facilities capable of assisting big ships going to and leaving the lay-up area.

2.3.3.2. The applicant must have at its disposal logistics vessel to cater to the requirements of laid-up vessel and its crew for the duration of the lay-up.

2.3.4. Financial Capability

2.3.4.1. For corporations or partnerships or single-proprietorship and other entities, a minimum paid-up capitalization of P5M shall be required.

2.4. Documentary Requirements

2.4.1. Letter of intent or application;

2.4.2. For Corporations or Partnerships – SEC Registration Certificate including Articles of Incorporation/partnership and By-Laws.

2.4.3. For Single Proprietorship – DTI Certificate of Registration including copy of the original application form filed with DTI.

2.4.4. For existing company, Latest Audited Financial Statement. For new company, audited financial statement is not required.

2.4.5. Company profile indicating list of Principal Officers and their bio-data with particular emphasis on experience in maritime-related activities.

2.4.6. List of vessel lay-up facilities and equipment in accordance with the MARINA prescribed checklist of requirements.

2.4.7. Payment of the processing fee.

2.5. Validity Of Certificate Of Accreditation

The Certificate of Accreditation shall be valid for a period of three (3) years from the date of issuance.

2.6. Reportorial Requirements

All MARINA accredited vessel lay-up agents shall submit the certified true copies of the following reports or documents within the period herein prescribed:

- 2.6.1. Amendment of Articles of Incorporation (AOI) or by-laws within thirty (30) calendar days from the date of approval of said amendment with the SEC.
- 2.6.2. Replacement of any principal officers/directors within thirty (30) calendar days thereafter, together with their BIO-DATA.
- 2.6.3. A MARINA accredited lay-up agent shall submit quarterly report on vessels laid-up, the status of the vessel lay-up or presently being laid-up.
- 2.6.4. Accidents or incidents encountered during the vessel lay-up shall be reported immediately.

2.7. Withdrawal From Business Or Suspension Of Operations

Whenever a MARINA-accredited lay-up agent decides to withdraw from business or suspends operations, a written notice of at least fifteen (15) days prior to said suspension or withdrawal shall be submitted to the MARINA whereupon the latter shall suspend the Accreditation of the lay-up agent. The Lay-up Agent shall automatically surrender to MARINA the original Certificate of Accreditation issued.

2.7.1. ISSUANCE OF VESSEL LAY-UP PERMIT AND DEPARTURE CLEARANCE

2.7.1.1. Procedure in Securing Lay-up Permit and Departure Clearance

- 2.7.1.1.1. Prior to vessel lay-up, the lay-up agent shall apply to MARINA Central Office or in the MARINA Regional Office with jurisdiction over the declared lay-up center the following information of the vessel: ship's particulars, country of registry, owner, tentative schedule of lay-up period and expected time of arrival, crew list.
- 2.7.1.1.2. Upon submission of the required information mentioned above, the MARINA shall issue the Authority to Accept Payment to the accredited vessel lay-up agent.
- 2.7.1.1.3. The accredited lay-up agent shall pay the lay-up permit fee and the lay-up

fee. The lay-up fee is payable on every fifth working day of the month, and that the account of the same shall be cleared prior to departure of the foreign vessel from the lay-up site.

2.7.1.1.4. The MARINA upon receipt of required fees or charges shall issue the lay-up permit per vessel to the lay-up agent. All concerned government authorities i.e. BUCUS, BI, BoQ and PPA shall be informed of the approval of MARINA requesting their assistance.

2.7.1.1.5. The MARINA shall issue the departure clearance to the vessel lay-up agent only upon showing that the departure clearance fee and the lay-up fees are paid in full and shall coordinate with the concerned government agencies of the exact departure of the foreign vessel.

2.7.1.2. Documentary Requirements

Documents	Application for	
	Lay-up Permit	Departure Clearance
1. Letter of Intent	Π	Π
2. Copy of a Certificate of Accreditation as lay-up agent	Π	
3. Date of arrival of foreign vessel to be laid-up	Π	
4. Date of departure of foreign vessel		Π
5. Foreign vessel information as enumerated in item 2.7.1.1.1 under this Section		

VI. FEES AND CHARGES:

1. Accreditation of Lay-up Agents - P 10,000.00 per application
2. Issuance of Lay-up Permit - 2,500.00 per permit
3. Departure Clearance - 2,500.00 per clearance
4. Lay-up Fee (Nominal):
5. Vessels below 50,000 DWT - US\$ 91.00 per day
6. Vessels of 50,000 DWT - 150,000 DWT - US\$ 104.00 per day
7. Vessels of above 150,000 DWT - US\$ 117.00 per day

VII. FINES AND PENALTIES:

1. Vessel Lay-up Agent without MARINA Certificate of Accreditation, the following administrative fines shall be imposed:
 - 1.1 First Violation P 5,000.00
 - 1.2 Second Violation 10,000.00
 - 1.3 Third and Succeeding Violations 25,000.00
2. Vessel Lay-up Agent with expired Certificate of Accreditation, administrative fines equivalent to fifty percent prescribed under item 1 of this Section shall be imposed:
 - 2.1 First Violation P 2,500.00
 - 2.2 Second Violation 5,000.00
 - 2.3 Third and Succeeding Violations 12,500.00
3. Failure to submit reportorial requirements:
 - 3.1 First Violation P 2,500.00
 - 3.2 Second Violation 5,000.00
 - 3.3 Third and Succeeding Violations 12,500.00
4. Failure to comply with the other provisions of this Circular is subject to payment of the following:
 - 4.1 First violation - P 10,000.00
 - 4.2 Second Violation - 15,000.00
 - 4.3 Third Violation suspension, cancellation, or revocation of lay-up Permit and Certificate of Accreditation of Lay-up Agent
5. For late payment of lay-up fees, there shall be assessed a surcharge of 1.5% of the amount due per month as prescribed under item 3 of this Section.

VIII. REPEALING CLAUSE:

Memorandum Circular No. 156 is hereby repealed. Any other MARINA issuances otherwise inconsistent herewith is modified or amended accordingly.

IX. SEPARABILITY CLAUSE:

Should any provision or part of this Circular be declared by competent authority to be invalid or unconstitutional, the remaining provisions or parts hereof shall remain in full force and effect and shall continue to be valid and effective.

X. EFFECTIVITY:

This Circular shall take effect immediately upon publication once in a newspaper of general circulation.

BY AUTHORITY OF THE BOARD:

(Sgd.) MARIA ELENA H. BAUTISTA
Administrator

SECRETARY'S CERTIFICATE

This is to certify that the foregoing MARINA Circular No. 2009-07 has been approved by the MARINA Board during its 193rd Board Meeting held on 27 March 2009.

(Sgd.) ATTY. JABETH SENA JEPATH A. DACANAY
Acting Corporate Board Secretary