

MEMORANDUM CIRCULAR NO. 75

**TO : ALL SHIPPING COMPANIES, OIL COMPANIES,
CHARTERERS/OPERATORS AND OTHER MARITIME
ENTITIES CONCERNED**

**SUBJECT : GUIDELINES ON THE TEMPORARY UTILIZATION OF
FOREIGN-OWNED/-REGISTERED TANKERS AND
CARGO VESSELS IN THE PHILIPPINE WATERS**

In order to accelerate the development and expansion of the domestic fleet/Philippine-registered vessels and provide for stable employment opportunities; and for national security, the Maritime Industry Board, taking into account the comments and position papers submitted by the Filipino tankers operators, the oil companies, relevant government agencies on energy utilization and its concerns involving maritime safety, marine pollution, prevention, protection, after hearing all the oral arguments, has decided to amend the existing regulations and adopt New Guidelines to govern temporary utilization of foreign-owned/registered tankers and/or specialized or general cargo vessels in the Philippine waters, including vessels used in oil drilling activities, offshore surveying, dredging, construction, and similar activities under the following provisions to foster healthy competition in the industry:

I. SPECIAL PERMITS CONDITIONS PRECEDENT TO TEMPORARY UTILIZATION

1. Operators/Charterers or Oil Companies which will utilize/need foreign-owned/-registered tankers and/or cargo vessels intended to be used temporarily in the domestic trade to carry or transport cargoes, liquid or otherwise, and operators/ charterer of vessels used in oil drilling activities, offshore surveying, dredging, construction and similar activities, shall apply for a Special Permit with the MARINA, located at 5th Floor, PPL Building, United Nations Avenue, Manila, and pay the requisite processing/filing fees therefor.
2. Temporary utilization for purposes of this Guidelines shall be understood to be the utilization of a foreign-owned/registered tanker and/or cargo vessel in the domestic trade or vessels used in oil drilling activities, offshore surveying, dredging, construction, and similar activities, for an aggregate period of less than one(1) year.
3. Intended continuous utilization of a particular foreign-owned/registered tanker and/or cargo vessel in the domestic trade or vessels used in oil drilling activities, offshore surveying, dredging, construction and similar activities, for a period of one(1) year or more at a time shall be governed

by the provisions of Presidential Decree No. 760/761/866/1711, and the rules and regulations issued pursuant thereto.

II. DURATION OF A SPECIAL PERMIT

1. The issuance of a Special Permit under this Memorandum Circular is anchored on the temporary character of the need to utilize foreign-owned/-registered tankers/ vessels in the domestic trade and the burden of providing that an urgent need exists shall lie on the local shipping operators or shipping agent or oil drilling company applying for special Permit, by submitting the requirements applicable as enumerated in this Circular.
2. A Special Permit may be issued on a month-to-month basis, or on a bi-monthly basis but no Special Permit shall have a duration of more than three(3) months per issuance.
3. For tankers a Special Permit shall be co-terminus with the Certificate of Compliance issued by the Department of Energy/Energy Industry Administration Bureau.

III. INSTANCES COVERING THE ISSUANCE OF SPECIAL PERMITS

1. A Special Permit will be issued in any of the following cases;
 - 1.1 Specialized cargo vessel to transport specialized or hazardous cargo when no suitable service can be provided by the Philippine registered domestic or overseas fleet.
 - 1.2 tankers to transport petroleum products when no suitable service can be provided by the Philippine registered domestic or overseas fleet.
 - 1.3 General cargo vessels and vessels used in oil drilling activities, offshore surveying, dredging, construction, and similar activities, when no vessels are available.
2. No Special Permit shall be issued to foreign-owned/-registered tankers/cargo vessels or vessels used in oil drilling activities, offshore surveying, dredging, construction which are more than fifteen(15) years old from date of launching.
 - 2.1 General Requirements for Special Permits
 - 2.1.1 Letter on intent from vessel owner/operator addressed to MARINA indicating the purpose of the utilization and

indicating the particulars of the vessel/s, duration of Special Permit, the port of call, or drilling, dredging, surveying, construction sites, and the volume and nature of commodity to be carried.

2.1.2 Board resolution authorizing the person to represent the applicant or letter of authority.

2.1.3 Charter party or contract of affreightment, or any agreement, or letter of intent.

2.1.4 Notarized vessel crew list.

2.2 For tankers

The shipping company/operator shall file an application for Special Permit with the MARINA attaching the general requirements under paragraph 2.1, hereto including the following:

A.

2.2.1 A copy of the TOVALOP-enrollment and P & I Marine Pollution Cover Certificate showing its registered or disponent owner certified by the oil company;

2.2.2 A copy of the Class Certificate issued by an internationally recognized Classification Society;

2.2.3 Th relevant technical requirements for the intended purpose, to include cargo capacity, volume of shipment and physical limitations of local ports with statement that no local tankers are available and suitable to the requirements;

2.2.4 Copy of Certificate of Registry, with complete technical description of the vessel to include hull, deck, superstructures, size, age, speed, draft, length overall (LOA); and

2.2.5 Certificate of Compliance from the Department of Energy-Energy Industry Administration Bureau issued to the oil company in need of the foreign vessel.

The oil company shall file a request with the Department of energy thru the Energy Industry Administration Bureau for the temporary utilization of the foreign-registered tanker stating and attaching relevant information, such as, but not limited to the following;

B.

- 2.2.1 The period covered by the intended temporary utilization of foreign-owned/registered tanker(s);
- 2.2.2 The relevant technical requirements of the tanker such as hull, deck superstructures, size, age, speed, draft length overall(LOA), cargo capacity/volume of shipment, cargo type, deadweight, flag, physical limitation of local ports, and with statement that no local tankers are available and suitable to the requirements; and
- 2.2.3 Copy of the letter of Intent to the disponent tanker operator/Contract of affreightment (COA).

Such request shall be delivered upon by a Special Committee composed of representatives from MARINA, DOE/EIAB, and PCG. Tanker operators' associations and interested tanker operators may sit-in as observers. Should the request be approved, the DOE/EIAB shall issue a Certificate of Compliance to the oil company.

2.3 For Other Vessel

The shipping company/operator shall file for Special Permit with the MARINA attaching the general requirement under paragraph 2.1, hereto and to secure a Certificate of Non-Availability of Vessels from the appropriate shipping association.

IV. SCHEDULE OF FEES

The applicant-company shall pay the processing fee herein listed:

1. Special Permit for temporary utilization of Foreign Registered Vessels in the Domestic Trade/Philippine waters/Extension/Renewal of SP/Amendment of SP (P12,000.00 minimum/month/vessels or P60.00/50 GRT or fraction thereof whichever is higher)
2. Endorsement to the Department of Labor and Employment for the Employment of foreign crew on board foreign registered vessel(s) temporarily utilized in the domestic trade/Philippine waters. (P3,000.00/Foreign Crew/person)

V. POST APPROVAL CONDITION

The applicant-company of vessel with foreign crew shall submit within fifteen(15) days upon approval of the Special Permit, a Special Work Permit for its alien crew from the Bureau of Immigration and Deportation(BID), if the stay and work in the Philippines is for thirty(30) days or less; and an Alien Employment Permit(AEP) from the Department of Labor and Employment(DOLE) if the period of stay and work is more than thirty (30) days, subject to endorsement by MARINA.

VI. VIOLATIONS

Any violation of the terms and post-approval conditions of the Special Permit shall subject the violator/person/company to the penalties provided under Memorandum Circular No.50, s.1989, and, in appropriate cases, the revocation or cancellation of the Special Permit.

VII. REPEALING CLAUSE

Memorandum Circular Nos. 68 and 68-A, series of 1992, are hereby repealed accordingly, except the Special Permits issued thereunder which are hereby recognized as valid until their expiration.

VIII. EFFECTIVITY

This Memorandum Circular shall take effect fifteen(15) days after its publication once in a newspaper of general circulation.

Manila, Philippines, 11 June 1993.