

MEMORANDUM CIRCULAR NO. 143
Series of 1999

TO : ALL CONCERNED DOMESTIC SHIPOWNERS, OPERATORS, MANAGERS, BAREBOAT CHARTERERS AND ALL OTHERS CONCERNED

SUBJECT : RULES AND REGULATIONS TO IMPLEMENT THE INTERNATIONAL SAFETY MANAGEMENT (ISM) CODE IN DOMESTIC SHIPPING

Pursuant to its mandate under P.D. No. 474 and E.O. No. 125 as amended, the Maritime Industry Authority (MARINA) issued Flag State Administration Advisory No. 8 on 06 October 1998, serving notice on the implementation of the International Management Code for Safe Operation of Ships and for Pollution Prevention (ISM CODE) which the Philippine Government opts to implement for selected domestic ships and companies/operators.

In order to ensure effective implementation thereof, the MARINA Board of Directors, during its 148th Regular Meeting on 03 June 1999 approved the following Rules and Regulations.

I. OBJECTIVES

1. To ensure compliance with the ISM Code through the herein adopted Rules and Regulations.
2. To foster a culture of safety and environmental protection in domestic shipping operations, whereby affected companies and ships shall:
 - Provide safe practices in ship operation and safe working environment;
 - Establish safeguards against all identified risks; and
 - Continuously improve safety management skills of personnel ashore and aboard ships, to include preparing for emergencies related both to safety and environmental protection.

II. COVERAGE

Taking into account the scheduled coverage under the ISM Code and the attendant required compliances with other Conventions, as harmonized with the existing policy of the Administration on ships required to be classed, with such being essentially mandated by the paramount concern of the state of ensuring the safety of lives of passengers and oil pollution prevention, the following ships are hereby covered:

1. Passenger High Speed Crafts
(In conjunction with M. C. No. 121 and subsequent amendments);
2. Passenger-carrying ships required to be classed and those currently classed (In conjunction with M.C. 25 as amended, M.C.104 and M.C. 124 and subsequent amendments);

3. Oil Tankers, Chemical Tankers and Gas Carriers 500 gross tons and above (In conjunction with M.C. No. 56 as amended, M.C. No. 104, M.C. No.128 and subsequent amendments); and
4. Bulk Carriers 500 gross tons and above and required to be classed. (In conjunction with M. C. No. 124 and subsequent amendments).

III. DEFINITION / REFERENCES:

For purposes of this Circular, the following terms are hereby defined:

1. "Administration" refers to the Maritime Industry Authority.
2. "Code" means the International Management Code for the Safe Operation of Ships and for Pollution Prevention known as ISM Code.
3. "Company" means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed responsibility for operation of the ship from the shipowner and who on assuming such responsibility has agreed to take over all the duties and responsibilities imposed by the Code.
4. "Safety Management System" (SMS) means a structured and documented system enabling company personnel to effectively implement the company's safety and environmental protection policy.
5. "Document of Compliance" (DOC) means the document issued to a company complying with the requirements of the ISM Code.
6. "Safety Management Certificate" (SMC) means the document issued to a ship after verification that the company and its shipboard management operate in accordance with the approved SMS.
7. "Recognized Organization" shall refer to any organization recognized and accredited by the Administration such as the International Classification Societies or other organizations who conduct ISM audit and perform ISM certification services for Philippine domestic companies and its ships.

Further guidance, elaborations or interpretations relative to the implementation of this Circular shall be made in accordance with the following:

- ISM Code;
- SOLAS, Chapter IX (Management for the Safe Operation of Ships);
- IMO Resolution A.788(19), inclusive of its Annex and Appendices; and
- IMO Resolution A.739(18), inclusive of its Annex and Appendices.

IV. GENERAL PROVISIONS

1. By 01 July 1999, only those companies which have the relevant Document of Compliance (DOC) shall be allowed to operate ships covered under this Circular. A company who does not have the herein required DOC however, will still be allowed to operate ships not covered by this Circular.

2. By 31 December 1999, all ships covered in this Circular are required to have a Safety Management Certificate (SMC).
3. All companies and ships commencing operations after the effectivity of this Circular and which are covered herein, are given twelve (12) months from date of accreditation under M.C. No. 79/79-A or registration under Philippine flag, to have the required DOC and SMC. Companies and ships commencing operations prior to the effectivity of this Circular but after 29 October 1998, are likewise given twelve (12) months within which to comply with this Circular, reckoned from their date of M.C. 79/79-A accreditation or registration under Philippine flag.

V. SPECIFIC PROVISIONS

1. Every company operating any of the ships herein covered shall develop, adopt and implement a Safety Management System (SMS).
2. Where another company/entity other than the registered owner/disponent owner has assumed operational control and responsibility over a ship covered under this Circular, the registered/disponent owner shall communicate to the MARINA the company/entity which shall assume responsibility for compliance with the ISM Code as herein provided.
3. The company shall have the option to secure ISM certification from either the Administration or any of the Recognized Organizations (ROs), provided that the full-term DOC and SMC shall be issued by the Administration. However, companies already issued their full-term DOCs, as well as full-term SMCs for their covered ships prior to the effectivity of this Circular shall immediately advise the MARINA of such, and present such DOCs/SMCs to MARINA for notation. Moreover, the Administration has the option to withdraw/invalidate any issuance of DOC/SMC if there are clear and substantial grounds that issuance of such is not in compliance with the requirements of the ISM Code.
4. Entities/Organizations which shall provide ISM Certification services shall be required to secure authorization from/recognition by the Administration. Recognized Organizations currently authorized to provide ISM Certification services are enjoined to enter into a more specific formal agreement with the Administration, as herein prescribed.
5. The Administration shall exercise its prerogative to conduct verification or audit whenever the circumstances so warrant.

VI. SCHEDULE OF FEES AND CHARGES

<ul style="list-style-type: none"> • Full-Term Document of Compliance (DOC) issued by the MARINA/Interim DOC issued by the MARINA 	P4,000.00/document
<ul style="list-style-type: none"> • Full-Term Safety Management Certificate (SMC)/ Interim SMC issued by the MARINA 	P4,000.00/certificate
<ul style="list-style-type: none"> • Audit (conducted by the MARINA) 	
1. Company	

a. Category I – Small (with 20 employees and below)	P16,000.00/complete Audit
b. Category II – Medium (between 21 and 50 employees)	P24,000.00/complete audit
c. Category III – Large (more than 50 employees)	P24,000.00/complete audit
2. Ship	
a. Category I <ul style="list-style-type: none"> • Oil Tankers, gas carriers, bulk carriers and other cargo ships of 500 GT and above; and • Passenger ships and high speed craft carrying less than 300 passengers 	P16,000.00/complete audit
b. Category II <ul style="list-style-type: none"> • Passenger ships and high speed craft carrying 300 up to 1,499 passengers; and • Chemical tankers 	P16,000.00/complete audit
c. Category III <ul style="list-style-type: none"> • Passenger ships carrying 1,500 passengers and above 	P24,000.00/complete Audit

Additional charges of P3,000.00/day/Auditor to cover accommodation and miscellaneous expenses(meal, transportation, etc.) and the corresponding amount for economy class air fare shall be collected and paid to the MARINA for audits conducted outside work station of the auditor(s).

VII. SANCTIONS AND PENALTIES

1. Non-possession and submission of the required SMCs/DOCs after the date of compliance provided for in this Circular, will provide a basis for the MARINA to temporarily suspend, after due process, the affected ship's licenses and/or authority to operate, and the company's accreditation with the MARINA, as well as deferment of action on pending applications involving the company/operator, all of which will remain in force until compliance with this Circular has been made by the affected companies and vessels.
2. The following fines/penalties shall likewise be imposed after due notice and hearing;

2.1. Non-possession Non-renewal of DOC or SMC	P50,000.00 per Company or per ship
2.2. Failure to communicate to the Administration the name & details of the entity who has assumed responsibility of complying with the ISM Code.	P25,000.00

VIII. REPEALING CLAUSE

All Memorandum Circulars, rules and regulations and issuances inconsistent herewith are hereby amended or repealed accordingly.

IX. EFFECTIVITY

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

Manila, Philippines 03 June 1999.

BY AUTHORITY OF THE BOARD:

AGUSTIN R. BENGZON
Administrator

SECRETARY'S CERTIFICATE

This is to certify that the above-mentioned Memorandum Circular has been approved during the 148th Regular Meeting of the Maritime Industry Board of Directors held on 03 June 1999.

ATTY. GLORIA J. VICTORIA-BAÑAS
Acting Corporate Board Secretary

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