

MEMORANDUM CIRCULAR NO. 105

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

SUBJECT : GUIDELINES ON THE TEMPORARY UTILIZATION OF FOREIGN-OWNED/REGISTERED VESSELS AND PHILIPPINE-REGISTERED OVERSEAS VESSELS IN THE DOMESTIC TRADE.

Pursuant to the provisions of Presidential Decree No. 474 and Executive Order Nos. 125/125-A, the following guidelines shall govern the temporary utilization of foreign-owned/registered vessels and Philippine-registered overseas vessels in the domestic trade.

I. OBJECTIVE

This Memorandum Circular aims provide guidelines in the temporary use of foreign owned/registered vessels and Philippine-registered overseas vessels in the domestic trade.

II. COVERAGE

This Circular shall apply to domestic shipping companies/operators/charterers/oil companies and concerned entities intending to temporarily utilize vessels of any type in the domestic trade.

III. GENERAL GUIDELINES

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 vessels and Philippine-registered overseas vessels, in the domestic trade.
2. Shipping Companies/Operator/charterers or Oil Companies which will utilize/need foreign owned/registered vessels, and Philippine-registered overseas vessels to be used temporarily in the domestic trade to carry or transport passengers and/or cargoes shall apply for a Special Permit with the Domestic Shipping Office, this Authority, and pay the required processing fee therefore.

3. On the other hand, Private/Public Corporation, Partnership, Association and other Entities which shall utilize vessels in oil exploration and drilling activities, offshore surveying, dredging, construction, underwater cable laying, floating hotel and/or recreation center, training/research ships, storage facilities and other similar activities shall apply for Exemption Certificate with Domestic Shipping Office.
4. The carriage by foreign shipping companies of their Own empty containers (considered ship's gear) between domestic ports shall be exempted from issuance of Special Permit.

IV. SPECIAL REQUIREMENT

All vessels to be temporarily utilized in the domestic trade with the issuance of SP/EP must comply with the following:

1. Must not be more than 15 years old from date of launching. However, this shall not apply to Philippine registered vessels and LPG carriers.
2. Must be classed by a recognized international classification society.

V. INSTANCES WARRANTING THE ISSUANCE OF SPECIAL PERMITS

A Special Permit shall be issued in any of the following instances:

1. There is no existing vessel operating in the proposed route/area of operation;
2. There is no available local vessel to transport the cargo to meet the shipping requirement;
3. The proposed vessel is contracted by private/public entities; and
4. In the case of vessel carrying or bringing in foreign tourists, operation calls at domestic ports is part of its itinerary.

VI. DEFINITION OF TERMS

1. Vessel - shall refer to all crafts or artificial contrivance utilizing any source of motive power designed, used or capable of being used as a means of water transportation.
2. Domestic trade - shall mean any operation of a vessel within Philippine waters.

3. Domestic/Philippine Ports - shall mean any port within Philippine waters.
4. Temporary Utilization - shall mean the operation of a foreign-owned/registered vessel or Philippine-registered overseas vessel in the domestic trade for an aggregate period of less than one (1) year.
5. Foreign-Owned/Registered Vessel - shall mean a vessel owned by a foreign national/company registered under foreign flag.
6. Philippine-Registered Overseas vessel - shall mean a vessel operating in the overseas trade under Philippine flag.

VII. DURATION OF SPECIAL PERMIT

A Special Permit shall 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.

An Exemption Permit shall have a duration co-terminus with the contract for which the vessel shall be utilized, but not to exceed one (1) year.

VIII. DOCUMENTARY REQUIREMENTS

- a) The following documentary requirements are to be submitted prior to issuance of special Permit:
 1. Letter of Intent
 2. Duly notarized Fixture Note or Contract of Affreightment or duly authenticated/notarized Time/Voyage Charter Agreement between vessel's registered owners and charterers duly signed, with names of signatories printed.
 3. Duly notarized Resolution of the company's Board of Directors, certified by the Board Secretary authorizing the filing of the application and designating the officials/authorized representatives to represent the applicant-company/registered owner.
 4. Valid Certificate of vessel's registry
 5. Class Certificate/Latest Survey Report
 6. SOLAS Certificates

7. Crew list indicating STCW certificates (number and validity) of the crew certificated
8. Proof of payment of Processing Fee
9. Additional Requirements

For log carriers

- a) Clearance from the Department of Environment and Natural Resources

For passenger vessels

- a) Clearance from the Department of Tourism (DOT) for tankers/barges for carriage of petroleum/petroleum by - products:
- b) Qualifications for officers and ratings who have specific duties and responsibilities for loading, discharging and care in transit or handling of cargo on board tankers:
 - i) At least one (1) year sea service on board tanker vessels; or
 - ii) Have taken an approved Tanker Familiarization or Basic/General Tanker Safety Course

For Regulation No. V/1:

- i) At least one (1) year experience on board oil tankers during the last five (5) years; and
- ii) Completed an Advanced/Specialized Oil Tanker Course

For Regulation V/2:

- i) At least one (1) year experience on board chemical tankers during the last five (5) years; and

- ii) Completed an Advanced/Specialized Chemical Tanker Course

For Regulation No. V/3:

- i) At least one (1) year experience on board LPG/LNG Tankers during the last five (5) years; and
- ii) Completed an Advanced/Specialized LPG/LNG Tanker Course
- b) EIAB Certificate of Compliance (COC)
- c) Certified true copy of the TOVALOP (except LPG carriers) & P & I Coverage

The oil company shall file a request with the Department of Energy thru the Energy Industry Administration Bureau for the issuance of a COC for the temporary utilization of the foreign/Philippine-registered tanker(s).

- b. The documentary requirements for issuance of Special Permit shall be as prescribed in the MARINA MC No. 85 and any amendment thereto.

IX. PROCESSING FEES

The Applicant shall pay the processing fee herein listed:

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| a. | Special Permit/Exemption Certificate for temporary utilization of Foreign-Registered Vessels in the Domestic Trade/Extension/Renewal of SP/EC | P12,000.00 minimum/month/vessel or P60.00/50 GRT or fraction thereof whichever is higher |
| b. | Special Permit/Exemption Certificate for temporary utilization of Philippine Registered Overseas Vessel in the Domestic Trade Extension/Renewal of SP/EC | P1,100.00 minimum/issuance/vessel or P55.00/100 GRT or fraction thereof whichever is higher |

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| c. | Special Permit for temporary utilization of Foreign-Registered Vessels in the Manila-Subic route | P2,200.00 minimum/issuance/vessel or P60.00/100 GRT or fraction thereof whichever is higher |
| d. | Amendment of Special Permit /Exemption Certificate | P220..00/vessel |

X. POST-APPROVAL CONDITIONS

The applicant-company shall submit within five (5) working days upon approval of the Special Permit, a certified true copy of the Special work Permit issued by the Bureau of Immigration and Deportation for its alien crew and, Alien Employment Permit issued by the Department of Labor and Employment, if employment is more than thirty (30) days.

XI. VIOLATIONS

Any violation of the terms and conditions of the Special Permit/Exemption Permit or any provision of this Circular shall warrant the revocation/cancellation of the Special Permit/Exemption Permit and the imposition of penalties provided for in MARINA Memorandum Circular No. 50-A or any amendment thereto.

XII. REPEALING CLAUSE

Memorandum Circular Nos. 75 and 75-A are hereby repealed.

XIII. EFFECTIVITY

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

Manila, Philippines, 06 April 1995.

BY AUTHORITY OF THE BOARD:

PACIENCIO M. BALBON, JR.
Administrator

SECRETARY'S CERTIFICATE

This is to certify that Memorandum Circular No. 105 was approved in the Special Meeting of the Maritime Industry Board held on 06 April 1995.

EMERSON M. LORENZO
Deputy Corporate Board Secretary

Date of Publication: 27 April 1995, Malaya Newspaper
Date of Submission to the UP Law Center: 28 April 1995