

MARINA CIRCULAR NO. 08
Series of 2009

TO : ALL DOMESTIC SHIPPING COMPANIES, SHIPOWNERS / OPERATORS, MOTORBOAT OPERATORS, MASTERS / BOAT CAPTAINS AND SEAFARERS ON BOARD PHILIPPINE-REGISTERED SHIPS AND OTHER SHIPS ENGAGED IN DOMESTIC OPERATIONS, AND ALL CONCERNED INDIVIDUALS

SUBJECT : RULES GOVERNING THE COMPLIANCE MONITORING OF SHIPS BY DEPUTIZED MARITIME ENFORCERS

Pursuant to the provision of Section 12 (f) of Executive Order No. 125, as amended, which mandated the MARINA to enforce laws, prescribe and enforce rules and regulations, including penalties for violations thereof, governing water transportation and the Philippine merchant marine, and deputize the Philippine Coast Guard and other law enforcement agencies to effectively discharge these functions, and in accordance with the Memorandum of Agreement (MOA) duly executed and entered into on 16 March 2009 by and between the MARINA and the Philippine Coast Guard (PCG), Philippine National Police-Maritime Group (PNP-MG), and Local Government Units (LGUs) through the Union of Local Authorities of the Philippine (ULAP) and Liga ng mga Barangay (LB), the following rules are hereby adopted:

I. OBJECTIVES:

1. To provide rules in the conduct of compliance monitoring of ships by MARINA- deputized maritime enforcers, in order to ensure uniformity and consistency in the conduct of the same;
2. To ensure that all Philippine-registered ships and other ships engaged in domestic operation duly comply with applicable maritime laws, rules and regulations; and
3. To ensure the effective implementation and enforcement of applicable maritime laws, rules and regulations, policies and other MARINA issuances.

II. COVERAGE:

All Philippine-registered ships and other ships engaged in domestic operations shall be subject to compliance monitoring in accordance with the provisions stated herein.

III. DEFINITION OF TERMS:

For purposes of this Circular, the following terms shall mean, as follows:

1. **Administration** – refers to the Maritime Industry Authority or the MARINA.
2. **Cease and Desist Order (CDO)** – refers to the issuance by the MARINA prohibiting a person or domestic shipowner/operator from continuing a particular course of conduct or operations due to serious deficiencies or violations of rules and regulations that would pose imminent danger to lives, properties and environment.
3. **Compliance Monitoring** – refers to a visit of duly deputized maritime enforcers on board a ship to examine and check the validity, authenticity and completeness of relevant ship and crew certificates and other documents, including the compliance with terms and conditions of Certificate of Public Convenience (CPC).
4. **Deficiency** – refers to a condition where compliance to maritime laws, rules and regulations, policies, and other issuance is found wanting or inadequate.
5. **Deputized Agents** – refers to agencies/organizations which are parties to the MOA.
6. **Deputized Maritime Enforcers** – refers to employees/members of deputized agents authorized by MARINA to perform compliance monitoring activities.
7. **Detention** – refers to the act of preventing the ships from leaving port due to violations presenting danger to the ship or persons onboard and harm to the marine environment.
8. **MARINA Trainers** – refers to employees of MARINA who have been designated by the Administrator and have undergone the necessary training for trainers.
9. **Maritime Violation Receipt (MVR)** – refers to an accountable form issued on-site by deputized maritime enforcers to the ship owners/operators/masters/crewmembers with respect to any violation/s or deficiency/ies found during the conduct of compliance monitoring.
10. **Ship** – refers to any kind, class, or type of craft or artificial contrivance capable of floating in water, designed to be used, or capable of being

used, as a means of water transport in the domestic trade for the carriage of passengers or cargo, or both, utilizing its own motive power or that of another.

11. **Violation** – refers to possession/holding of expired/spurious/invalid certificates/documents of ship/boat and its crew including non-compliance with the terms and conditions of CPC/SP/EP and such other rules and regulations prescribed by this Authority.

IV. GENERAL PROVISIONS:

1. The MARINA through its deputized maritime enforcers shall further ensure that all Philippine-registered ships and other ships engaged in domestic operations comply with maritime laws, rules, regulations, policies and other issuance.
2. Only designated employees/members of the deputized agents who have met the qualification and training requirement herein specified may be authorized by MARINA to act as deputized maritime enforcers.
3. The deputized maritime enforcers shall wear the MARINA prescribed uniform and identity card when boarding a ship to carry out compliance monitoring activities.
4. Compliance monitoring activities shall be limited to areas specified under Annex-A of the MOA.
5. Compliance monitoring of a ship shall be carried out unannounced during port stays and shall be conducted in a manner that will not cause undue delay to the ship's departure.
6. The conduct of compliance monitoring shall be limited to verifying that the appropriate certificates and other documents of ship and its crew are valid and complete, and that the terms and conditions of the Certificate of Public Convenience (CPC)/ Special Permit (SP)/ Exemption Permit (EP), as applicable, are complied with.
7. The deputized maritime enforcers shall be given access on board a ship for the purpose of conducting compliance monitoring activities. The owner/operator or the master/boat captain or duty officer of the ship is enjoined to extend assistance and full cooperation to the deputized maritime enforcers in the conduct of their compliance monitoring functions.
8. The deputized maritime enforcers shall issue Maritime Violation Receipt (MVR), hereto attached as Annex-1, for any violation/s or

deficiency/ies found during the conduct of compliance monitoring of ship.

V. SPECIFIC PROVISIONS:

1. **Qualifications and Documentary Requirements of Deputized Maritime Enforcers** – Duly designated or endorsed employees/members of deputized agents shall meet the following qualifications criteria and submit the corresponding documentary requirements. Their designation/endorsement shall be accompanied by a duly accomplished Personal Data Sheet (PDS), hereto attached as [Annex-2](#):

Qualification for PCG/PNP-MG	Documentary Requirements
Permanent employee / member	Appointment / Certificate of Memberships or valid identity card

Qualification for ULAP/LB	Documentary Requirements
Secondary level	DECS or School Certification
Good Moral Character	Police or Barangay Clearance; and Certificate of Good Moral Character either from Parish Priest, School Principal, Religious Leaders, or Barangay Captain

2. **Training Requirements:**

- 2.1. The duly qualified employees/members of deputized agents shall undergo training on the following areas/subjects:
 - 2.1.1. Historical background, organization, and functions of the MARINA;
 - 2.1.2. MARINA policies, rules and regulations;
 - 2.1.3. Ships/motor bancas documents and certificates to include terms and conditions of CPC;
 - 2.1.4. Ship’s crew licenses and certificates;
 - 2.1.5. Compliance monitoring procedures; and
 - 2.1.6. Responsibilities and accountabilities of deputized maritime enforcers.

2.2. The above training shall be conducted by qualified MARINA trainers and will be complemented by on-site or on-the-job training to ensure that participants have acquired adequate knowledge, competence and skills in the conduct of compliance monitoring of ships.

2.2.1. After completion of the training, the participants shall be issued a Certificate of Attendance and an official deputation identity card, hereto attached as Annex-3, which shall serve as their authority to conduct compliance monitoring activities in their respective areas of jurisdiction.

2.2.2. Deputized maritime enforcers shall undergo refresher trainings to update them of the recent developments and current MARINA policies, rules and regulations.

3. Procedures in the Conduct of Compliance Monitoring:

3.1. Compliance monitoring of ships shall be carried out at least two (2) hours prior to departure and 30 minutes prior to departure of motor bancas.

3.2. The deputized maritime enforcers shall use the appropriate Compliance Monitoring Report Form (CMRF), containing the inspection checklists/items, hereto attached as follows:

3.2.1. Annex 4 and Annex 4A - For use of deputized maritime enforcers of PCG and PNP-MG;

3.2.2. Annex 5 - For use of deputized maritime enforcers of ULAP and LB.

3.3. Upon boarding the ship / boat, the deputized maritime enforcers shall introduce themselves to the ship master / boat captain or duty officer in an orderly manner and explain the nature, purpose, details and scope of the monitoring to be carried out.

3.4. The deputized maritime enforcers shall then proceed to examine and verify the validity and completeness of certificates and documents of the ship/boat and its crew including compliance with the applicable terms and conditions of the CPC/SP/EP.

3.5. A Maritime Violation Receipt (MVR) shall be issued for any violation/s found and reported in the CMRF. Copies of invalid or spurious certificate or document, and photographs of violation/s

committed shall form part of the CMRF. For violation/s considered serious in nature so as to pose imminent danger to life, property and marine environment, detention of the ship shall be recommended in accordance with the Guidelines for the Detention of Ship set forth in paragraph 7.

- 3.6. If the relevant certificates and documents are valid and found in order, and in compliance with the applicable terms and conditions of the CPC/SP/EP, the deputized maritime enforcers shall accomplish and issue the appropriate CMRF.
- 3.7. The ship/boat master or duty officer shall be required to sign the CMRF and the MVR, as applicable, to confirm that he is in agreement with the findings/results of the compliance monitoring. The deputized maritime enforcers shall ensure that the ship/boat master or duty officer is provided with copies of the CMRF and MVR, as appropriate. If the ship/boat master or duty officer refuses to sign and/or receive/accept the CMRF and the MVR, such refusal shall be reflected in the report.

4. Procedures in the issuance of MVR:

- 4.1. Each MVR booklet shall contain 50 sets of violation receipt printed in quadruplicate copies with preprinted numbers. The original copy (white) is for respondent/violator to be issued after payment of penalties, the duplicate copy (blue) is for the respondent/violator to be issued upon apprehension, the triplicate copy (pink) is the MARINA copy to be transmitted together with the original copy (white) five (5) days after issuing the duplicate copy (blue), and the quadruplicate (yellow) is the Enforcer's file copy which shall remain attached in the MVR booklet.
- 4.2. The deputized maritime enforcers should instruct the master / captain or the duty officer or the owner/operator of the ship/boat to present the duplicate (blue) copy of the MVR issued to them to the nearest MARINA office or at any Land Bank branches and pay the corresponding fines/penalties and to rectify the violation/s or deficiency/ies within 15 days.
- 4.3. Within five (5) days from issuance, the original (white) copy and triplicate (pink) copy of the issued MVR shall be transmitted/delivered or mailed by deputized maritime enforcers to designated MARINA Office for appropriate disposition/action. An official Transmittal Form, hereto attached as Annex-6, is to be attached to copies of MVR for transmittal/delivery.

- 4.4. Following the payment of fines/penalties and issuance of corresponding official receipt (OR), the respondent ship master/boat captain/crewmember/owner/operator shall claim the original (white) copy of the MVR at the designated MARINA Office.
- 4.5. Immediately after the 15-day rectification period specified in the MVR, the concerned deputized maritime enforcers shall conduct a follow-up inspection of the ship to determine whether the cited violation/s has been rectified.
- 4.6. In the event of non-compliance with the terms of the MVR after 15 days from the initial issuance of the MVR, the non-rectified violation/s shall be considered second infraction and the deputized maritime enforcers shall issue another MVR for the said violation/s. In case of continued non-rectification of the same noted violation/s after the second issuance of MVR, such failure to rectify shall be considered as third infraction and the deputized maritime enforcers shall again issue a corresponding MVR where additional fines and penalties shall be charged to the ship owner/operator/master.
- 4.7. After the lapse of the 15-day period from the third issuance of MVR, there being no answer and/or the noted violation/s and penalties remain uncorrected and unpaid, respectively, the concerned MARINA Office shall watch list or include the name of the ship and its owner/operator/master/crewmember in the list of those with pending cases. Consequently, any issuance or renewal of the ship documents/certificates with the MARINA shall be held in abeyance until its case has been resolved.

5. Control of MVR and Reportorial Requirements

- 5.1. To properly control the MVR Booklets, a uniform "MVR Booklets Log Book" shall be kept and maintained by the MARINA which should show the whereabouts of the booklets, the names of deputized maritime enforcers to whom such booklets have been given/distributed, and the evidence of receipt. The log book shall contain the following column headings:
 - 5.1.1. Booklet number/quantity;
 - 5.1.2. Serial numbers;
 - 5.1.3. Name of deputized maritime enforcers to whom the MVR booklet is issued;
 - 5.1.4. Date received by deputized maritime enforcers; and

5.1.5. Date reported totally used/issued.

- 5.2. In addition to the responsibilities placed on MARINA for keeping accurate records specified in the preceding paragraph, each deputized agent is also responsible for keeping records of all MVR booklets supplied to them and expended/issued by them. The deputies may develop their own procedures for assigning MVR booklets to their individual maritime enforcer. Deputized maritime enforcers shall be required to officially receive the MVR booklet issued to them in the Receipt Form shown in Annex-7.
- 5.3. Upon receipt of MVR booklet, the deputized maritime enforcers should inspect the booklet to insure that the pages are in correct numeric sequence and contains 50 sets of MVR, and are the same as those listed on the Receipt Form signed by them.
- 5.4. Copies of Receipt forms shall be submitted to the MARINA for record keeping purposes.
- 5.5. Each deputized agent shall designate an official to be responsible for the daily supervision of issuance, accountability and reconciliation of MVR, the name of which shall be submitted to the MARINA for proper recording.
- 5.6. The MARINA Regional Office Directors shall exercise direct supervision and control over the deputized maritime enforcers in their respective areas of responsibility or jurisdiction.
- 5.7. The deputized maritime enforcers shall be primarily responsible for the proper use and application of the MVR in their actual possession or custody, and shall be liable / accountable for the loss, damage or deterioration occasioned by negligence in keeping or use of the MVR.
- 5.8. Original copy and triplicate copy of issued MVR shall be transmitted/delivered or mailed by deputized maritime enforcers or their designated Supervisor/s to MARINA Office who issued the deputation/MVR Booklet to them, within five (5) days after issuance for appropriate disposition/action.
- 5.9. Spoiled/Voided MVR should be immediately returned by deputized maritime enforcers to their designated Supervisor/s. A word "VOID" or "SPOILED" should be written across the MVR, in bold letters, along with the appropriate reason. The

Supervisor/s shall then transmit/deliver the voided/spoiled MVR including a brief explanation to MARINA for proper recording.

- 5.10. Periodic monitoring and reconciliation must be performed for issued, unissued and spoiled/voided MVR to properly account missing MVR or any gaps in the numbering sequence. Issued MVR should likewise be reconciled to paid and dismissed MVR.
- 5.11. The MARINA Regional Offices shall submit to the MARINA Central Office a monthly summary listing of issued, unissued and spoiled/voided MVR including the revenue collected from the issuance of the MVR.
- 5.12. The deputized maritime enforcers shall immediately report any loss of MVR in their possession or custody to their Supervisor/r who shall immediately inform/notify the MARINA in writing containing an explanation and indicating therein the quantity, serial number/s of the lost MVR, the place where, and the approximate date when the same were lost.
- 5.13. Subject to paragraph 5.12 above, the MARINA shall issue/publish a notice of such loss in newspaper of general circulation for information and guidance of all concerned to prevent the possible fraudulent use of lost MVR. The notice to be issued/published shall specify the quantity and the inclusive serial numbers of the lost MVR and the place where, and the approximate date when the same were lost.
- 5.14. The deputized maritime enforcers shall surrender the MVR booklet to their Supervisor/s when all its pages have been used up. The quadruplicate (yellow) copy should remain attached to the expended MVR booklet when surrendered.
- 5.15. The Deputized maritime enforcers shall be required to account for all the pages of the MVR booklet before receiving a new one. The Supervisor/s responsible for the issuance of MVR booklet to their individual maritime enforcers shall review the expended booklet before it is closed out and before a new booklet is issued to deputized maritime enforcers to ensure that all MVR are accounted for. Subsequently, the procedures from paragraph 5.1 through 5.4 above shall apply over again.
- 5.16. Deputized agents shall submit all expended MVR booklets to the MARINA.

6. Suspension and Revocation of Deputation

- 6.1. Deputized maritime enforcers who committed any of the following offenses shall be suspended for a period of six (6) months after due process in performing compliance monitoring of ships:
 - 6.1.1. Discourteous conducts;
 - 6.1.2. Extortion;
 - 6.1.3. Negligence;
 - 6.1.4. Grave Misconduct;
 - 6.1.5. Abuse of Authority;
 - 6.1.6. Incompetence;
 - 6.1.7. Inefficiency;
 - 6.1.8. Graft and Corruption; and
 - 6.1.9. Failure to submit copy of MVR within 5 days from the date of issuance.
- 6.2. The following grounds shall warrant the revocation of the deputation:
 - 6.1. Repetition of any of the offenses enumerated in the above paragraph;
 - 6.2. Separation from government service;
 - 6.3. Physical disability/impairment; and
 - 6.4. Death

7. Guidelines for the Detention of Ship

- 7.1. After determination that the violation/s found in a ship is serious to merit detention, the deputized maritime enforcers shall recommend the detention of the ship/boat.
- 7.2. Copy of the CMRF with recommendation for the ship/boat detention along with the copy of MVR issued and any document or evidence to support the detention of ship/boat should be immediately transmitted / submitted / delivered to the nearest MARINA Office for appropriate action.
- 7.3. Upon receipt of the CMRF and MVR referred to in paragraph 7.2 above, the MARINA Legal Office/Unit shall immediately issue a Cease and Desist Order (CDO) to the respondent owner/operator of the ship/boat subject for detention.
- 7.4. The deputized maritime enforcers shall assist in the serving of the CDO to the ship owner / operator / master/captain, copy of

which shall be furnished to the Philippine Ports Authority (PPA) and Philippine Coast Guard (PCG) to deny issuance of departure clearance to the ship subject for detention.

- 7.5. The CDO/detention order can only be lifted upon rectification of violation/s or deficiency/ies and full payment of the penalty amount has been made.
- 7.6. After determination that the cited violation or deficiency has been satisfactorily rectified and the corresponding fine/penalty has been paid, the deputized maritime enforcers shall recommend for the lifting of the CDO/detention order.
- 7.7. The MARINA shall issue an Order for the lifting of the CDO which shall serve as notification to PPA and/or PCG and issuance of departure clearance to the ship.

VI. DEPUTIZATION OF ENFORCEMENT FUNCTIONS TO THE PCG:

The PCG shall continue to discharge its delegated/deputized functions relative to the following:

1. Conduct of pre-departure inspection;
2. Receiving of Master's Oath of Safe Departure (MOSD);
3. Issuance of Special Permit (SP) to carry dangerous cargoes; and,
4. Receiving of Marine Protest.

VII. REPEALING CLAUSE:

Any provision of existing MARINA Circulars, Rules and Regulations and other issuances which are inconsistent with this Circular is hereby repealed or modified accordingly.

VIII. SEPARABILITY CLAUSE:

Should any provision or part of this Circular be declared by any 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.

IX. EFFECTIVITY:

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

Manila, Philippines.

BY AUTHORITY OF THE BOARD:

(Sgd.) MARIA ELENA H. BAUTISTA
Administrator

SECRETARY'S CERTIFICATE

This is to certify that the above-mentioned Memorandum Circular No. 2009 - 08 has been approved during the 192nd Regular Meeting of the Maritime Industry Board of Directors held on March 23, 2009.

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

Date of publication: _____
Date of Submission to the U.P. Law Center