

MEMORANDUM CIRCULAR NO. 80

TO : ALL SHIPOWNERS/OPERATOR IN DOMESTIC TRADE

SUBJECT : POLICY GUIDELINES IN THE REGULATION OF DOMESTIC WATER TRANSPORT SERVICES

In line with the national policy of pursuing a program of deregulation and fostering a favorable climate for increased investments, and pursuant to Sec. 6 (a) and 6 (b) of PD No. 474, Sec, 12 (a), (b), (c), and (h) and (k) of E.O No. 125-A and Sec. 3 paragraph 2 of DOTC Department Order No. 92-587 date 30 March 1992, the following guidelines are hereby adopted:

I. OBJECTIVE

This circular serve to provide consolidated policy guidelines intended to promote a more liberal/deregulated atmosphere for liner operations in the domestic shipping industry, within the purview of the mandate vested with the Maritime Industry Authority (MARINA) and that of existing laws and jurisprudence.

II. COVERAGE

This Circular shall apply to all persons, corporations, firms and entities engaged in the operation of a domestic water transportation service, for compensations, commercial or public use, involving the carriage of passenger and/or cargoes between various ports and places in the Philippines, either as liner or tramper as the corresponding provisions herein would indicate.

III. DEFINITIONS OF TERMS – For purposes of this Circular the following terms or phrases shall have the meaning/definitions as hereinbelow indicated;

1. Certificate of Public Convenience (CPC) – an authorization issued by the MARINA to a vessel for a domestic water transportation services for commercial/public use for which no franchise, either municipal or legislative, is required by law.
2. Provisional Authority (PA) – the provisional or operate a line or service pending final determination of the application for issuance of Certificate of Public Convenience.
3. Liner Service – The operation of domestic water transportation which publicly offers their services without discrimination to any user, have

regular ports of call/destination and have fixed sailing schedules and frequency.

4. Tramp Service – The operation of a freight vessel which mostly does not run in any regular line but takes cargo wherever the shippers desire, are hired on a contractual basis or chartered by one or few shippers under mutually agreed terms and usually carries full cargoes of bulky commodities.
5. Financial Capability – as a requisite to the grant of CPC, shall constitute the availability of funds to initiate/establish and maintain its operation and the availability of sufficient financial reserves to meet claims arising from accident or the existence of sufficient insurance coverage.
6. Public Interest/Convenience – the common good; that which is for the benefit of all people or a majority thereof.
7. Prior Operator Rule – the priority given to an existing authorized operator in a route, and in each of the segments of the route, by virtue of a CPC/PA issued.
8. Prior Applicant Rule – the priority given to the first applicant, among the mass of various applicants, for a CPC.
9. Protection of Investment – the protection and conservation of investment which have already been made by public service operators.
10. Wholesome/Constructive Competition – when two (2) or more operators in a route/link compete for a share of the passenger and/or freight market on the basis of quality and efficiency in services, types of facilities and accommodations provided, and/or level of rates and satisfaction and without endangering the financial viability of operations therein.
11. Franchised Operator – any operator that is issued a CPC.
12. Authorized Operator – any operator that is issued either a PA or a CPC.
13. Authorized Route – the pattern of ports of call starting and ending on the same port, as indicated in an existing CPC/PA granted by this Authority to a liner vessel.
14. Innovative/Technologically-Advanced Service – a type of vessel or shipping service/shipping trade which is not yet being provided in a given route.

- 15.** Cost – effective/Competitive Shipping Service – when two or more operators in a given route are charging rates commensurate to the level and quality of shipping service being provided, such that any variation in the level and quality of shipping service provided among the operators will result in corresponding variations in the rates being charged by each operator. If the rates charged by the existing operators in a route do not vary despite differences in service, or are unusually high, or the service rendered is at the minimum level of the prescribed standards and not commensurate with the rates being charged, there is deemed to be lack of effective competition, in which case, effective competition would be fostered by the entry of a new operator which can offer better service at as given prevailing rate or lower rates at the same level of service being provided.
- 16.** Monopoly – a situation where there is lack of effective competition, or a case when a market is served either by only one(1) franchised operator; by a group of franchised operators beneficially owned by a single individual, family or a collusion; or by a cartel.
- 17.** Development Route – an economically desirable route not being served presently by any franchised operator offering the same type of service. This suggest that the route / link maybe considered developmental in respect to ship’s technology, e.g. the route may be considered developed as far as banca service are concerned but considered developmental for conventional cargo vessels, or considered developed as far as conventional cargo vessels but considered developmental for container operations. Economic desirability in this sense, is established when the areas served have agricultural, tourism, mining and/or industrial growth potentials or the areas served need the link with developed regions for their subsistence and development.
- 18.** Reasonable Spacing of Sailing Schedules – the minimum time difference to be allowed for the departure of vessels in a given port, after taking into account such consideration as type of service, loading/unloading procedures, port facilities, public interest/convenience, etc.
- 19.** Withdrawal from service – the suspension of a vessel’s service in its authorized route or portions thereof.
- 20.** Abandonment from Service – the authorized withdrawal of a vessel’s services by the ship operator/shipowner in its authorized route, or portions thereof, for a period of four (4) months or more.
- 21.** Vessel Rerouting – the changing of the authorized routing pattern of a vessel.

22. Vessel Replacement/Substitution – the deployment of a vessel to serve as replacement or substitute for an existing vessel authorized to operate in a given route.
23. Addition/Expansion – the introduction of an additional vessel, an increase in the vessel's sailing frequency in a given route, a replacement of a franchised vessel with a bigger vessel, or an increase in effective capacity of the franchised vessel through alterations, such as jumboization or rearrangement of the passenger accommodation plan.
24. Authorized Sailing Frequency – the number of trips/links a vessel can make at a given period of time as indicated in its PA/CPC.
25. Fork Tariff System - a system wherein rates are allowed to fluctuate between carefully defined upper and lower limits from a given reference/indicative rate.
26. Class A – as used in commodity classification for rates determination, includes generally high value manufactured goods.
27. Class B & C – are used in commodity classification for rates determination, includes generally lower value manufactured goods, raw materials and agriculture products.
28. Class C (BASIC) – refers to rice, palay, corn, corngrits, fruits and vegetables under the commodity classification.

IV. POLICY GUIDELINES ON THE ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE (CPC)

1. General Policy Guidelines

1.1 Requisites before a CPC/PA may be granted

As provided for under Sec. 16(a), Chapter II of the Public Service Act (C.A. No. 146, as amended), the following requisites must be complied with before any CPC/PA may be granted;

- a. The applicant must be a citizen of the Philippines, or a corporation or joint-stock company constituted and organized under the laws of the Philippines, at least sixty(60) per Centrum of stocks or paid-up capital of which belongs entirely to the citizens of the Philippines;

- b. The applicant must be financially capable of undertaking the proposed shipping service and meeting the responsibilities incident to its operations; and
- c. The applicant must prove that the proposed operation of the public service, and the authorization to do business, will promote public interest in a proper and suitable manner.

In addition to the above requisites, no vessel shall be issued a CPC/PA unless it has complied with prescribed safety requirements and service standard, as embodied in related rules, regulations and Memorandum Circulars.

- 1.2 Public interest or public convenience shall be the cardinal or primordial consideration in the grant of CPC/PA, above any and all considerations. While it is the duty of the government, as far as possible, to protect public utility operators against unfair and unjust competition, it is nevertheless obvious that public convenience must have the first consideration.

Public interest shall therefore prevail over “prior applicant”, “prior operator”, and “protection or investment” considerations. Finally, reasonable/ wholesome/constructive competition shall be allowed and encouraged to the extent possible.

- 1.3 The presumption of public need for a service shall be deemed in favor of the applicant, while the burden of proving that there is no need for a proposed service shall be with the oppositors.

2. Specific Policy Guidelines on Entry into and Exit Out of the Industry

The control in entry into and exit out of the industry shall be liberalized to introduce and/or enhance the level of competition in terms of rates charged and the quality of service rendered by domestic water transportation operators as herein provided.

2.1 Opening – up of Monopolized Routes

There shall be a minimum of two(2) operators in any route/link. Routes/links presently serviced by only one(1) operator, or monopolized as defined, shall be open for entry to additional operator(s).

2.2 Encouraging Entry Into Developmental Routes.

The provision of shipping services in developmental routes, as defined, shall be encouraged. An operator who pioneers in the provision of a certain technological level/type of shipping service in a developmental route, shall be authorized to charge market-accepted freight and passage rates different from the authorized fork – tariff, if availed of; provided, that the operator shall apply with the MARINA for the adjustment in or adoption of such rates, the approval of which shall accordingly granted; and provided, further, that after five (5) years of such operation, the continued authorization of such rates, or adjustments thereof, shall be dependent on an evaluation undertaken by the MARINA.

2.3 Deregulating Entry of Newly – Acquired Vessels Into routes Already Served By Franchised Operators.

Shipping companies/operators who acquire a vessel through importation, bareboat charter with option to purchase, lease purchase, or local construction, shall be granted a PA/CPC and allowed to operate such vessel in any route, even if already being served by existing franchised operators, including developmental routes, provided, that the prescribed application for CPC has been filed, and the basic requisites prior to issuance thereof have been complied with; provided, further, that upon filing the application for CPC, the presumption of public need shall be accorded in favor of the applicant, especially but not necessarily when any of the following conditions shall be shown to obtain;

2.3.1 The proposed operation shall introduce innovative, technologically – advanced , or pioneering shipping services in the route applied for, such as, but not limited to, the deployment of fast ferries, cruise vessels container vessels and RoRo vessels, or the employment of modern/efficient on – board cargo handling equipment as an integral part of the vessel’s operation;

2.3.2 The proposed operation shall introduce improvements in the quality of service being provided in the applied route/link.

2.3.3 The vessel proposed to be deployed shall serve as an improvement over the existing vessels operating therein, either in terms of the vessel’s age, size/capacity, hull material and other vessel technical features.

- 2.3.4 The proposed operation shall foster cost-effective/competitive shipping service in the route proposed to be served;
- 2.3.5 The proposed operation shall service priority tourist links as identified by the Department of Tourism in its Tourism Master Plan.
- 2.3.6 The route/link applied for warrants additional operators / services, as determined by this Authority, resulting in public invitations for additional services therein and/or there is a duly verified and legitimate public clamor for additional shipping services therein and it has been determined that existing authorized operators in the route/link have not been sensitive to an increase in demand by offering to increase capacity only after another operator has offered to provide additional services therein.
- 2.3.7 Where existing authorized operators have abandoned their operation in a given route.

Any oppositor to the application filed shall carry the burden of proving that there is no need for the proposed service.

Provided, finally, that the vessel, upon issuance of the CPC, shall continuously serve its franchised route for at least one (1) year.

2.4 Vessel Rerouting/Amendment of Authorized Route/Change in sailing Schedules and Frequency.

Any Change/amendment to the authorized routing pattern of a vessel can be undertaken by an existing authorized operator thru the following; (I) omission/deletion of port(s); (ii) addition of another port(s); (iii) omission and subsequent addition of port (s); (iv) changing the sequence of port calls; (v) retention of authorized routing pattern but with addition of one or more ports. Vacated port(s)/link(s)/route as a result of the above shall be looked into by this Authority insofar as adequacy/sufficiency of the remaining existing shipping service is concerned.

2.4.1 Approval shall be granted to applications for any of the above forms of change/amendment of authorized routing pattern by existing franchised liner vessels, provided, that;

- No conflict in sailing schedules with other affected operators in the applied route/link shall result

therefrom, otherwise, the MARINA shall prescribe, Muto propio, sailing schedules that will best serve public interest and convenience; and

- No route or link shall be left unserved by the routing/route amendment, unless a substitute vessel from the applicant will be deployed therein, or vessel from other existing authorized operator are left serving the route/link.
- Shipping service in the previous route/link has been continuously rendered by the vessel for at least one (1) year from issuance of serving the route/link.

2.4.2 If the rerouting/route amendment of a vessel is caused by the deployment of a newly acquired vessels (either through importation, bareboat charter with option to purchase, lease purchase or local construction) into the authorized route of an operator/company, the policy of liberalized entry into any route under Sec. IV.B.3 above shall be applied.

2.4.3 If no newly – acquired vessel is involved and an application is filed for rerouting/route amendment of a vessel, where an entirely new route or link will be served, a new application for CPC shall be filled and entry therein will depend on whether any of the conditions/circumstances enumerated in Sec. IV, 2, 2.3, above has been proven to obtain. Priority however, shall nevertheless be given to newly-acquired vessels brought in into the fleet, subject to Sec. IV 2, 2.3, of this Circular in the grant of CPC to a given route.

2.4.4 In cases where only a temporary authority has so far issued to a vessel, pending resolution of the basic application for CPC, an application for amendment of route/rerouting maybe filled and considered by the MARINA, but the emended authority to be issued as a result thereof, shall be subject to one(1) year maximum period per issuance to be cumulatively reckoned from the first PA Issued in the original application.

2.5 Henceforth, the entry of vessels into a given route shall be evaluated and considered by the MARINA notwithstanding the existing market conditions therein. Market surveys of routes/links, if and when conducted, shall only be for monitoring purposes in order to assess the quality and sufficiency of shipping services being provided therein.

2.6 Despite the preceding provisions for liberalized entry into any routes/links, the MARINA may however, limit or quality further entry of additional vessels in a given route/link when the berthing and other facilities as well as other technical considerations in a given port can no longer accommodate additional vessels at a given time, subsequent to the prescription of reasonable sailing schedule therein.

2.7 Abandonment/ Withdrawal/Suspension of Shipping Services

An Authorized operator shall be allowed to withdraw/suspend his services in a route/link provided that a notice of withdrawal/suspension is filed with the MARINA fifteen(15) days prior to such after informing the public of such decision. In cases where prior notice is not practicable, as in suspension of services after a marine casualty, major machinery damage, and other fortuitous events, the operator should file the notice with the MARINA within fifteen (15) days after the incident, and also provide in such notice as indications as to when the service may resume. By unauthorized total or partial abandonment/withdrawal/suspension of a vessel's services in its authorized route, or portions thereof, for a period of four (4) months or more, an operator already forfeits, after hearing, his right to his Certificate.

2.8 Vessel Replacement/Substitution and Addition/Expansion of Shipping Services.

Existing franchised operators in a given route/link shall be allowed, upon filing the required application with the MARINA, to increase their capacity through;

2.8.1 replacement of an operating franchised vessel with a bigger vessel, without any limit on capacity;

2.8.2 introduction/deployment of additional vessels;

2.8.3 increase in the vessels' sailing frequency, subject to Sec. IV, 2, 2.4, 2.4.1 of this Circular; and

2.8.4 jumboization or rearrangement of the vessels' passenger accommodation plan, as duly approved by this Authority.

The herein policy shall be observed even after the authorized entry of additional vessels into the route/link, pursuant to Sec. IV 2, 2.3 herein.

2.9 Swapping/Substitution/Changes in Sequence of Port Calls of Purely Cargo Liner Vessels.

Considering that the level of service required of cargo liner service is not as demanding as that for a passenger liner service, liberalizing cargo liner operations within an operator's franchised areas/ports of call is expected to result in improving optimum utilization of vessels and improved efficiency and response in the provision of cargo services. Purely cargo liner operators shall therefore be allowed to swap/substitutes vessels and/or change the sequence of port calls, upon filing the appropriate notice with the MARINA, and provided that:

2.9.1 On vessel swapping, the swapped vessels shall adhere strictly to their authorized routes, sailing frequencies and sequencing of port calls. No limits shall be placed on the capacities of the swapped vessels.

2.9.2 Proposals affecting changes in the sequence of port calls shall be limited to the company's or to the vessels' authorized ports of call as determined by valid and subsisting franchises, provided that no new links, shall result therefrom. New links are defined as port-to-port combinations created as a consequence of route combinations/amendments, which link areas are heretofore unserved by other franchised operators. Where new links are created, approval shall depend on whether any of the conditions cited in Sec IV 3, 3.1 above obtain.

2.9.3 Instances involving temporary route swapping, route amendment, or vessel redeployment for purposes of making side trips or special trips to carry shut-out or empty containers, shall be granted immediate authorization by this Authority provided that a notice is filed no less than three (3) days before the redeployment/swapping/etc. is initiated.

3. Specific Policy Guidelines on Quality of Shipping Services.

MARINA Memorandum Circular No. 65/65-A prescribing for Minimum Service Standards for Philippine Registered Inter-island Passenger Vessels shall be implemented and shall be used as basis for assessing the quality of existing shipping service. Compliance with this set of standards will ensure acceptable quality of shipping service for passenger comfort and convenience.

3.1 A link/route shall be declared warranting improvements in services subject to the following conditions;

3.1.1 The public, individual or collectively, in the latter case through their recognized organizations or legally constituted or authorized representative institutions, shall petition the MARINA on the need to improve the services of vessel(s) plying the routes/links in the affected area; and

3.1.2 An independent survey/investigation shall be conducted by the MARINA to ascertain the validity of the need for an improvement in services. MARINA may include shipping association members and/or non-government organization representatives in the fact-finding mission and/or inventory systems as may be ascertained to determine the compliance with quality of service standards.

4. Specific Policy Guidelines on Franchise Issuance's

4.1 Period of Validity of a CPC to be Issued

<u>Vessel Category/ Vessels' Age Upon CPC Issuance</u>	<u>CPC Validity</u>
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4.1.1 Steel-hulled vessels

0-10 years old	-	10 years
11 years and above	-	5 years

No CPC/PA shall be issued to steel-hulled vessels above 30 years old if not classed by a classification society recognized by the government

4.1.2 Wooden-hulled vessels

0-5 years old	-	5 years
6 years old and above	-	3 years

No CPC/PA shall be issued to wooden – hulled vessels above 20 years old.

4.1.3 Motorized Bancas -- Fixed duration of 2 years per CPC issuance, with a maximum of 4 CPC issuance's.

4.1.4 Bareboat chartered Vessel pursuant to PD 760/866

0-10 years old -- 10 years, or co-terminus with the bareboat charter party, whichever is shorter, but not to go beyond 1999 or the expiry of the bareboat chartering program.

11 years & above- 5 years, or co-terminus with the approved Bareboat Charter Party, whichever is shorter, but not to go beyond 1999 or the expiry of the bareboat chartering program.

4.2 Issuance of Provisional Authority (PA) to Operate

Pending final determination of an application for CPC, temporary relief, by way of a PA, can be issued to a vessel applying in a given route/type of operation, upon determination by this Authority that it will promote public interest and convenience or there is an urgent public need for the said service, subject to existing quasi-judicial rules and procedures, and provided that the basic requirements as embodied in pertinent laws, rules, regulations and circulars have been complied with:

4.2.1 For uncontested CPC applications, a PA with a maximum validity period of one(1) year shall be issued, and it shall be incumbent upon this Authority to arrive at a decision on the basic application for CPC on or before the expiry of the PA issued, except in cases, where the cause of delay is attributed to the applicant.

4.2.2 For contested CPC applications, a PA with a maximum validity period of six(6) months, which maybe extended for another six(6) months, shall be issued, and it shall be incumbent upon this Authority to arrive at a Decision on the basic application for CPC on or before the expiry of the first or second PA issued, except in cases where the cause of delay is attributed to the applicant.

The above provisions notwithstanding, the validity of the PA to be issued to vessels required to be classed and are still in the process of being classed shall be dependent on guidelines prescribed internally by this Authority.

- 4.3 An applicant for CPC who fails to comply with prescribed requirements within a period of one(1) year from the time of filing of the application shall lose his/her standing as a prior applicant/operator and his/her status as an oppositor to any application in the same route. Applications falling beyond the one(1) year period as above stipulated shall be dismissed without prejudice to the re-filing of the same.

V. POLICY GUIDELINES ON RATE AND FARE DETERMINATION

1. On the General Structure of Rates

- 1.1 A fork tariff range of +10% and -15% from the MARINA determined indicative or reference rate, as embodied under MARINA Memorandum Circular No. 67, is hereby reiterated. Upon filing the necessary application with this Authority, common carriers engaged in inter-island liner shipping service shall be authorized to adopt rates within the herein fork tariff range, and those so authorized are required to submit to this Authority a quarterly report of the actual rates charged.
- 1.2 The automatic fuel adjustment mechanism, as also embodied under MARINA Memorandum Circular No. 67, is likewise reiterated, to be made applicable to all interisland liner shipping vessels, and is operative whenever fuel prices, specifically diesel oil, bunker and special fuel. Oil are increased/decreased by at least 10%.

2. On Passage Rates

- 2.1 First and second Class passage rates shall continue to be deregulated, for all vessels offering such accommodation in accordance with the service standards prescribed under MARINA Memorandum Circular No 65, provided that at least fifty(50) percent of the authorized passenger capacity of the vessel shall be allocated and maintained for Third Class accommodation.
- 2.2 For vessel catering to tourism however, as duly certified/accredited by the Department of Tourism (DOT), or vessels of any type/size serving DOT-identified tourist priority links/areas, they shall be exempted from the requirement of allocating 50% of their capacity for Third Class accommodation and accordingly, their passage rates, shall be deregulated unless the operators opt to have their rates rationalized/prescribed by this Authority.
- 2.3 In cases where only First and Second Class passenger accommodation are provided by a vessel, or where Third Class

passenger accommodations are provided by a vessel or where Third Class passenger accommodations provided by the vessel is less than 50% of the vessels' total passenger capacity, the Second Class passage rate shall be regulated, with the prescribed rates as hereunder indicated;

2.3.1 For operators who are authorized to charge rates under MARINA MC No.59.

Distance(NM)	Minimum	Per Passenger Base	Max.
0-100	1.6697	1.9643	2.1607
101-300	1.5413	1.8133	1.9946
301 and above	1.3870	1.6318	1.7950

2.3.2 For operators who are authorized to charge rates under MARINA MC No. 57.

Distance(NM)	Minimum	Per Passenger Base	Max.
0-100	1.4907	1.7538	1.9292
101-300	1.3762	1.6190	1.7809
301 and above	1.2384	1.4570	1.6027

2.3.3 For operators who are authorized to charge rates under MARINA MC No. 46

Distance(NM)	Per Passenger
0-100	1.3491
101-300	1.2454
301 and above	1.1208

2.3.4 For operators who are authorized to charge rates under MARINA MC No. 46

Distance(NM)	Per Passenger
0-100	1.1058
101-300	1.2454
301 and above	0.9187

3. On Cargo Rates

- 3.1 Class C (Basic) is herewith abolished, and the commodities contained therein are reclassified as Class C commodities. Livestock rates shall continue to be deregulated.
- 3.2 The freight rates for commodities of whatever class that are carried in reefer boxes, or are shipped as transit cargoes (interisland legs of international shipment) continue to be deregulated. Freight rates of fruits and vegetables that are shipped in ventilated containers are also herewith deregulated.
- 3.3 The deregulation of specific Class A and Class B commodities for certain links (or between an origin and destination port), shall be initiated, in conjunction with the reclassification by this Authority of certain commodities based on consultations to be undertaken with concerned shippers and shipowners/operators, as well as related government agencies; Provided, that the operator files an application with this Authority; and Provided, further, that the liner or ferry route/link is not monopolized by the applicant and services therein are adequate. Upon approval of the application, the authorized operator shall file with this Authority and tariff for Class A and Class B commodities, and any change thereafter.

VI. INSTITUTIONAL MECHANISM

1. Periodic inspection of vessels will be undertaken by this Authority to monitor compliance with MC No.65/65-A relative to the passenger accommodation areas of vessels, as well as to assess the quality of service being provided, utilizing the Passenger Service Rating System(PSRS) prescribed by this Authority. Any vessel found to provide First and/or Second Class Services below standards may either render and entire capacity of the vessel to be categorized as Third Class for which only Third Class passage rates should be charged, or even render the vessel to be unfit for transporting passengers.
2. This Authority shall likewise adopt an improved route monitoring mechanism and conduct route capacity measurement, or alternative evaluation schemes, of identified liner or ferry route/link. The results thereof shall serve as basis for the issuance of public advisory routes deemed warranting the entry of additional operators, or to serve as guide on whether the further entry of additional operators in a certain route, for a particular category/type of shipping service, is still warranted.
3. There shall be consultations to be jointly coordinated and conducted by this Authority and the Philippine Shipper's Bureau to address matters,

issues or problems of common interests affecting the riding public, the shippers/cargo owners and the shipowners/operators, to be participated in by persons in their individual capacities, designated representatives of duly formed associations, non-governmental organizations, people's organizations, and even other government agencies. These consultations shall take place whenever requested by any of the above mentioned parties. The matters to be the subject of consultation shall include, but not limited to, tariff conditions, commodity classifications, adequacy and quality of shipping services, relevant rules, regulations, policies and procedures, etc.

VII. DETERMINATION OF FINANCIAL CAPABILITY OF PA/CPC APPLICANTS

1. The issue of financial capability of applicants as a pre-condition to the issuance of CPC shall be constructed as the simultaneous satisfaction of two(2) basic financial requirements:

- 1.1 The Availability of Funds Sufficient to Establish/Initiate and Sustain Operations

The applicant is deemed financially capable to establish/initiate and sustain operations if its actual working capital is equal to or greater than the required working capital, where;

Actual Working Capital = Current Assets minus
Current Liabilities

Required Working Capital = Two months operating,
Administrative and Interest
Expenses, minus two months
Revenues (qualified by the
Average Aging Receivables)

In case where the applicant is not deemed financially capable of undertaking a shipping service, the MARINA shall require him to undertake an increase in working capital equivalent to the computed deficiency. Proof of such increase and corresponding documents, under oath and duly notarized, shall be submitted to MARINA for re-computation/re-evaluation of the applicants financial capacity.

- 1.2 The Availability of Sufficient Financial Reserves to Meet Claims Arising From Accidents.

VIII. TECHNICAL EVALUATION

Section 17(a) of the Public Service Act states that “The Commission (now MARINA) shall have power without previous hearing subject to established limitations and exceptions and saving provisions to the contrary: a) to require any public service to furnish safe, adequate, and proper service as public interest may require and warrant; b) to enforce compliance with any standard rules, regulations, order or other requirement of this Act on the Commission”.

1. The MARINA shall ensure that vessels to be utilized for public convenience are seaworthy and properly maintained to enable the public utility operator to provide safe, reliable, comfortable and efficient shipping service.
2. The public utility operator in the maritime sector assumes the responsibility for providing and maintaining safe, reliable, comfortable and efficient shipping service. On the other hand, the government should allow only those ships that meet the established physical, technical and service standards to operate in the inter-island trade.
3. The officers and crew of vessels shall meet the established standards of competence.

(Note: For stamp operations, only IV, VII, VIII, and pertinent portions of VI shall apply.)

IX. PENALTIES/SANCTIONS

Any violation of, or failure of the operators to comply with the policies/guidelines herein above set forth shall constitute a sufficient ground for the disapproval of the application for Certified of Public Convenience/ Provisional Authority and/or suspension/revocation/ cancellation of the vessel's Certificate of Public Convenience/Provisional Authority, as the case may be, in addition to the penalties provided under Public Service Act, as amended, and other relevant rules and regulations of this Authority, after due notice and hearing.

X. REPEALING CLAUSE

This Memorandum Circular supersedes MARINA Memorandum Circular Nos. 26, 39 and 71 and any provisions of existing MARINA rules and regulations, which are inconsistent with this Circular are hereby repealed or modified accordingly.

XI. Effectivity

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

Manila, Philippines, 08 November 1993.

BY AUTHORITY OF THE BOARD:

PACIENCIO M. BALBON, JR.
Administrator

SECRETARY'S CERTIFICATE

This is to certify that Memorandum Circular No. 80 has been approved during the 117th Meeting of the Maritime Industry Board held on 05 November 1993.

EMERSON M. LORENZO
Deputy Corporate Board Secretary