

## **MEMORANDUM CIRCULAR NO. 95**

**TO : ALL SHIPBUILDING, SHIP REPAIR, SHIPBREAKING AND BOATBUILDING COMPANIES**

**SUBJECT : REVISED IMPLEMENTING GUIDELINES ON THE LICENSING OF SHIPBUILDERS, SHIP REPAIRS, AFLOAT REPAIRERS, BOATBUILDERS AND SHIPBREAKERS**

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Pursuant to Section 2 of Presidential Decree No. 474 as further strengthened by Executive Order Nos. 125/125-A and within the context of Presidential Decree No. 666, the following rules and regulations, are hereby prescribed and promulgated for information, guidance and compliance of all concerned.

### **Section 1. DEFINITION AND BASIC GUIDLINES**

- 1.1 “Shipbuilding” shall mean the design, construction, launching and outfitting of all types of watercraft.
- 1.2 “Ship Repair” shall mean the overhaul, repair, improvement, alteration of the hull, machineries, equipment, outfits, and components of all types of watercraft.
- 1.3 “Afloat Ship Repair” shall mean the repair, improvement, alteration and reconditioning of the hull and/or the overhaul of the machinery and equipment of vessels at berth or at anchorage or at sea.
- 1.4 “Boatbuilding” shall mean the design, construction, launching and outfitting of watercrafts with sizes ranging from fifteen(15) gross tons and below.
- 1.5 “Shipbreaking” shall mean the dismantling of uneconomical or unserviceable ships for the purpose of recovering useful steel and other dismantled parts and the rehabilitation and repair of usable machineries, instruments and devices.
- 1.6 “Watercraft” shall refer to vessels and any floating structure and/or equipment.
- 1.7 “Shipyard” shall refer to the area (landbased) where watercrafts are built or repaired or dismantled.

- 1.8 “MARINA Licensed Enterprise” shall refer to a person or enterprise duly licensed under these rules and regulation implementing PD 666 or under this memorandum Circular.

**Section 2. CONDITION FOR LICENSING**

- 2.1 Coverage – No shipyard, graving dock, floating dock, liftdock, marine railway, marine repair shop, shipbreaking yard/facilities and no person or enterprise shall engage in the construction and/or repair/shipbreaking of any watercraft or any phase or part thereof without a valid license from the Maritime Industry Authority.

- 2.2 Category – To determine the nature of their activities, licensed enterprises may be divided into the following categories:

- (a) shipbuilder
- (b) ship repairer with drydocking facilities
- (c) shipbuilder and ship repairer
- (d) ship repairer without drydocking facilities
- (e) afloat ship repairer
- (f) boatbuilder
- (g) shipbreaker

- 2.3 Qualification requirements – For any foregoing categories, the applicant must meet the following:

2.3.1 General Requirements:

- (a) The applicant must be a Filipino citizen or a corporation/partnership at least 60% of the authorized stock of which is owned by Filipino citizens except for joint ventures which are registered with the Securities and Exchange Commission, the board of Investments and/or Export Processing Zone Authorities.
- (b) The undertaking of shipbuilding and/or ship repair/afloat ship repairer or shipbreaking must be within the principal proprietary, partnership, or corporate powers of the applicant.
- (c) The applicant or applicant’s managers/operators and principal officers must have sufficient educational background/training and/or experiences in shipbreaking, shipbuilding and/or ship repair or afloat ship repair.

- (d) The applicant must own, lease, operate and manage a shipyard or be in a process of building its own shipyard, shipbreaking facilities or shore repair facilities in support of afloat ship repair. (This requirement shall not apply to boatbuilders)

A. Shipbuilder and/or Ship Repairer (shipyard)

There shall be three classification in this category: (a) Large shipyard, (b) Medium shipyard; and (c) Small shipyard

a) Large shipyard

- i. The applicant must have either a graving dock, a floating dock, a liftdock, a marine railway with a capacity of at least 7,500 DWT.
- ii. The applicant must have a pool of permanent personnel (technical and skilled workers) including one (1) licensed Naval Architect and one (1) licensed Marine Engineer and a duly designated safety officer.
- iii. The applicant must have a minimum paid-up capitalization of P 10,000,000.

b) Medium shipyard

- i. The applicant must have either a graving dock, a floating dock, a liftdock, a marine railway with a capacity of 1,500 DWT to 7,499 DWT.
- ii. The applicant must have a pool of permanent personnel (technical and skilled workers) including one (1) licensed Naval Architect and one (1) licensed Marine Engineer and a duly designated safety officer.
- iii. The applicant must have a minimum paid-up capitalization of P 5,000,000..

c) Small Shipyard

- i. The applicant must have either a graving dock, a floating dock, a liftdock, a marine railway with a capacity of below 1,500 DWT.

- ii. The applicant must have a pool of permanent personnel(technical and skilled) including one(1) licensed Naval Architect and one (1) licensed Marine Engineer and a duly designated safely officer.
- iii. The applicant must have a minimum paid-up capitalization of P 1,000,000.

B. Afloat Repair/Ship Repairer (without drydocking facilities)

- i. The applicant must have a pool of permanent personnel (skilled and technical).
- ii. The applicant must have a minimum paid-up capitalization of P 100, 000..
- iii. The applicant must have least welding machine and cutting equipment.

C. Boatbreaker

- i. The applicant must have a minimum land area of 100 sq.m.
- ii. The applicant must have at least one (1) skilled/experienced boatbuilder.
- iii. The applicant must have a minimum capitalization of P 15,000..

D. Shipbreaker

- i. The applicant must have a pool of permanent personnel (skilled and technical) including one (1) licensed Naval Architect.
- ii. The applicant must have a minimum paid-up capitalization of P 5,000,000.ˆ

2.3.2. Documentary Requirements:

- i. Letter of intent, including request for inspection indicating location of shipyard, list of facilities, major machineries

and equipment, list of permanent employees including their respective positions, if any.

- ii. For Corporations – Certificate of Registration with SEC, duly supported by the Articles of Incorporation (AOI) and By-Laws reflecting shipbuilding and/or ship repair/afloat ship repair/shipbreaking as the primary purpose.

For Single Proprietorship – Certificate Of Registration with DTI

For joint Venture – Certificate of Registration with BOI

(Note: Boatbuilders are not required to submit compliance herewith)

- iii. Bio–data of Incorporators/Partners/Proprietors and Principal Officers, showing shipyard or related experience or expertise
- iv. SEC (Appraiser’s and Examiner’s Dept.) certification on the required paid-up capital (if AOI does not reflect the same). In case of boatbuilders, proof of capital investment.
- v. Mayor’s Permit (only in the case of boatbuilders)
- vi. Clearance from DENR and PPA (only in the case of shipbreakers)

- 2.4 Application for a license – All application shall be filed by qualified applicants in person or through a duly authorized representative with the MARINA on forms prescribed for this purpose.

An application shall be considered as officially filed only upon full completion of the relevant requirements, and upon payment of the required fees.

The filing of the application shall be deemed as permission for the MARINA to conduct inspections of the applicant facilities and records, and to verify whatever sources the veracity of the entries/statements in the application forms and supporting documents as well as the genuineness of said documents.

### **Section 3. LICENSE TO OPERATE**

- 3.1 Issuance of License – Upon satisfactory compliance of all relevant requirements and payment of the necessary fees, a License Certificate valid for three (3) years shall be issued and, thereupon, the applicant is considered a MARINA – Licensed Enterprise for the purpose of this Circular. Such certificate shall also serve as the certificate of accreditation for purposes of EO 125/125-A and of availment of BOI incentives under the Omnibus Investments Code of 1987 (EO 226) and other privileges as maybe provided by law.
- 3.2 License Entry Book - Immediately upon the issuance of the license, the name of the enterprise, its license number, validity period, and date of issuance shall be entered into the License Entry Book.
- 3.3 Non – transferability - The License Certificate is issued only after careful evaluation of the qualifications of the applicant, hence, it may not be transferred or alienated in whatever manner nor its use by another be allowed.
- 3.4 Display of License Certificate – The original License Certificate shall be displayed in a conspicuous place in the main office of MARINA – Licensed enterprise and authenticated photocopies of the certificate shall be posted at its place of business, (shipyard and/or ship repair, shipbreaking, boatbuilding industrial plant)
- 3.5 Effect of Withdrawal of Business or Suspension of Operation – Whenever a MARINA – Licensed enterprise decides to withdraw from business or suspend operations, prior written notice thereof to be sent to the MARINA.

Withdrawal from business operations shall automatically cancel the License to Operate which shall be turned over to the MARINA.

A new license shall be secured from the MARINA by a previously licensed enterprise that had withdrawn prior to the resumption of its operation.

- 3.6 Renewal of License – The license shall be renewed every three(3) years on or before its expiry date by the MARINA upon satisfaction of all relevant MARINA requirements. Licenses not renewed on time shall be assessed an additional fee/surcharge of fifty percent (50%) of the license fee, for each month of default or any fraction thereof, which shall be without prejudice to the imposition of administrative fines and penalties for operating without valid MARINA license prescribed in Section 5 hereof.

- 3.7 Conduct of inspection - MARINA shall conduct annual inspection and from time to time as the exigency of MARINA may require for purposes of monitoring/planning and enforcing of MARINA rules and regulations, with emphasis on safety aspects.

**Section 4. SUBMISSION OF REPORTS AND DOCUMENTS**

- 4.1 Reports/Notices for submission – Every MARINA – Licensed enterprise shall submit to the MARINA the following reports, notices and/or documents within the time herein prescribed;
- 4.1.1 Amendment of Articles of Incorporation/Partnership or By – Laws within thirty (30) calendar days from the date of registration of the amendment(s) with Securities and Exchange Commission. (if any)
- 4.1.2 Replacement(s) of any Director or other principal officer within thirty(30) calendar days after said replacement. (if any)
- 4.1.3 Annual report duly accomplished by a responsible officer of a licensed enterprise and audited by a duly licensed auditor to be submitted within sixty(60) days from the close of its fiscal year. Standard forms shall be prescribed by the MARINA for these reports.
- 4.1.4 Change of address and telephone numbers within ten(10) days after the actual change.

**Section 5. SCHEDULE OF FEES – Fees for applications under this Memorandum Circular shall be the following:**

CATEGORY FEE	INSPECTION FEE	LICENSE FEE	TOTAL
SBSR A	P 5,550	P 13,800	P 19,350
B	P 4,161	P 10,350	P 14,511
C	P 2,790	P 6,960	P 9,750
AF/SR C	P 2,790	P 3,480	P 6,270
SHIPBREAKER	P 2,790	P 13,800	P 19,350
BOATBUILDER	P 1,500	P 500	P 2,000

**Section 6. SANCTIONS**

- 6.1 The MARINA may, after due notice and hearing, suspend/cancel/revoke the license to operate of a MARINA – Licensed enterprise for the following grounds:

- 6.1.1 Failure to maintain the qualification for licensing required in Section II 3.1
  - 6.1.2 Willful or grossly negligent violation of shipyard laws and rules and of the provisions of this Memorandum Circular.
  - 6.1.3 Violation of environment protection laws and rules and regulations.
- 6.2 For engaging in shipbuilding, ship repair, afloat ship repair, boatbuilding and/or shipbreaking without a valid MARINA license, a person or enterprise shall be imposed the following administrative fines:

First Violation	-	P5,000
Second Violation	-	10,000
Third & Succeeding violation	-	25,000

In addition to above penalties, the business establishment shall be subject to closure, to be effected by the MARINA in coordination with appropriate law enforcement or peace authorities.

**Section 7. Repealing Clause**

All previous issuances or parts thereof which are inconsistent with this MEMORANDUM CIRCULAR are hereby repealed, modified or amended accordingly.

**Section 8. Publication and Affectivity**

This Memorandum Circular shall take effect fifteen (15) days after publication once in the Official Gazette and two (2) newspapers of general circulation.

Done in the city of Manila this \_\_\_\_\_ day of \_\_\_\_\_, 1994

PACIENCIO M. BALBON, JR.  
Administrator

SECRETARY'S CERTIFICATE

This is to certify that MEMORANDUM CIRCULAR NO. 95 was approved during the \_\_\_\_\_ Regular Meeting of the Maritime Industry Board on \_\_\_\_\_ 1994.

PURITA C. CENTENO  
Corporate Board Secretary

Date of Publication : 30 December 1994, Malaya Newspaper  
Date of Submission to the U.P Center : 03 January 1995