



Republic of the Philippines
DEPARTMENT OF TRANSPORTATION



MARITIME INDUSTRY AUTHORITY

MEMORANDUM CIRCULAR NO. MS-2020- 02

Series of 2020

TO : All Shipping Companies Operating Philippine-registered Overseas Ships, Charterers/Shipmanagers, Recognized Organizations and all others concerned

SUBJECT : RULES ON THE CONDUCT OF OVERSIGHT FUNCTION OF MARINA IN THE DELEGATION OF AUTHORITY TO RECOGNIZED ORGANIZATION AS FLAG STATE ADMINISTRATION

Pursuant to the provisions of Presidential Decree No. 474, Executive Order No. 125, as amended, Philippine Merchant Marine Rules and Regulations (PMMRR), 1997 and its subsequent amendments, International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended, the International Maritime Organization (IMO) Instruments Implementation Code (III Code) and Recognized Organization Code (RO Code), the following rules are hereby prescribed:

I. OBJECTIVES

1. To effectively implement the Flag State Administration survey, inspection, audit and monitoring of Philippine-registered ships engaged in international voyages;
2. To establish measures to carry the Flag State Administration survey, inspection and audit of ships in order to secure compliance with international maritime instruments to which the Philippines is a State Party; and
3. To establish an oversight programme as a Flag State Administration to ships entitled to fly its flag including the establishment of monitoring measures in the performance of statutory and certification services by Recognized Organizations (ROs) acting on behalf of the Flag State Administration¹.

¹ IMO Instruments Implementation (III) Code, Part 2, Para. 20

II. COVERAGE/SCOPE

This Circular covers the oversight programme of the Maritime Industry Authority (MARINA) on the following:

1. All Philippine-registered ships engaged in international voyages including training ships and ships engaged in ASEAN-RORO/BIMP-EAGA routes;
2. All Recognized Organizations accredited under MARINA Circular No. 2018 – 01, and its subsequent amendments as amended, performing statutory certification and services to Philippine-registered ships engaged in international voyages and companies; and
3. All companies as defined in the ISM Code operating ships described in Sec. II.1 therein.

III. EXCEPTIONS

Fishing vessels, warships, government-controlled ships shall be excluded from this Circular.

IV. DEFINITION OF TERMS

1. **Administration** refers to the Maritime Industry Authority (MARINA);
2. **Audit** – a systematic, independent and documented process for obtaining audit evidence and evaluating the same objectively to determine the extent to which the audit criteria are fulfilled²;
3. **Survey** – A determination whether a ship conforms to standards set by national and international maritime regulations.
4. **Inspection** – A verification of statutory documentation and a general examination of the ship's structure, machinery and equipment as well as a thorough inspection and/or operational testing of fire fighting equipment, life saving appliances and safety equipment and that the ship is manned and operated according to the existing rules and regulations;

² IMO MSC92/26/Add.1 p. 34

5. **Flag State Inspection** – function of the Flag State Administration to inspect a ship registered under its flag to ensure that it maintains compliance with the requirements of applicable national and international regulations;
6. **Port State Control** – a measure adopted by a port State to ensure that foreign flag ships visiting its ports pass the relevant certificates and documents required by the Conventions and that the crew and the overall condition of the ship, its equipment, machinery spaces and accommodations and hygienic conditions onboard, met the provisions of the relevant maritime instruments³;
7. **Port State Control Findings** – are the results of Port State Control inspection, which are classified into either detainable or non-detainable deficiencies;
8. **Recognized Organization (RO)** - refers to an organization duly assessed by the Administration and have complied with the RO Code in accordance with IMO Res. A.739(18) and IMO Res. A.789(19) and authorized to undertake statutory surveys and inspections and to issue certificates on behalf of the Administration⁴;
9. **RO Code** – a Code adopted by IMO under Resolutions MSC.349(92) and MEPC.237(65) that serves as the international standard and consolidated instrument containing minimum criteria against which organizations are assessed towards recognition and authorization as well as the guidelines for oversight by Flag States⁵; and
10. **Oversight** - any activity carried out by the Administration to ensure that the service of the RO complies with IMO and national requirements for Philippine shipping companies and their Philippine-registered ships⁶;
11. **Flag State Officer (FSO)** – A technical personnel authorized by MARINA to conduct flag state survey, inspection and/or audit;
12. **Major non-conformity** – An identifiable deviation that poses a serious threat to the safety of personnel or the ship or a serious risk to the environment that requires immediate corrective action or the

³ PCG Memorandum Circular No. 01-00 published on 7 Jan. 2014

⁴ MARINA Circular No. 2018-01, Sec. III.8

⁵ MARINA Circular No. 2018-01, Sec. III.9

⁶ MARINA Circular No. 2018-01, Sec. III.7

lack of effective and systematic implementation of a requirement of the International Safety Management (ISM) Code.⁷

13. **Major deficiency** – Deficiency that poses danger to the safety of the ship and marine environment. It is a finding during a survey or inspection warranting denial, non-issuance or withdrawal of the ship safety certificates.

V. GENERAL PROVISIONS

1. All ships covered by this Circular shall be surveyed, inspected and audited by the Flag State Administration, in the exercise of its oversight function under the following instances:
 - a. within the five-year cycle of their Safety Certificates;
 - b. in case a ship is involved in marine accidents or incidents;
 - c. additional inspection and/or audit of ships and companies in cases of detention or noted commonly cited PSC findings, which shall be reported in accordance with Sec. VII of this Circular; and
 - d. if requested by the appropriate authorities of another State.
2. The audit of companies shall be conducted under the following circumstances:
 - a. poor performance of operated/managed ships;
 - b. involvement in accidents of ships operated/managed by the company;
 - c. repeated detention of ships certified operated/managed by the company; or
 - b. at the instance of the Administration whenever it deems the audit is warranted.⁸
3. The audit of the RO shall be conducted under the following circumstances:
 - a. upon showing of clear grounds of violation of the MOA;
 - b. poor performance of the RO as reported by PSC MOU regimes;
 - c. involvement in accidents of ships certified by the concerned RO;

⁷ International Safety Management Code 1.1.10

⁸ MSC 92/26/Addendum p. 38

- d. repeated detention of ships certified by the concerned RO; or
 - e. at the instance of the Administration whenever it deems the audit is warranted.⁹
- 4. The Administration shall apply uniform interpretations in implementing IMO Conventions as well as national regulations in the conduct of survey, inspection and/or audit to Philippine ships, shipping companies and ROs.
 - 5. The Flag State Inspection and audit of Philippine Registered Ships and the audit of ROs shall be guided by procedures established by the Administration. Attached herein as **Annex A** is the *Inspection Checklist* for Philippine Registered Ships, which serves as guidance to shipping companies and ships covered by this Circular. Likewise, attached **Annex B** is the *Audit Checklist* for ROs' guidance. The said annexes shall form part of this Circular and shall be subject to amendments in accordance with updates in international conventions and instruments and national regulations.
 - 6. Flag State Inspection includes verification of statutory documentation and a general examination of the ship's structure, machinery and equipment as well as a thorough inspection and/or operational testing of fire fighting equipment, life saving appliances and safety equipment and that the ship is manned and operated according to the existing rules and regulations of the Flag State.
 - 7. The conduct of survey, inspection and/or audit shall be performed by authorized flag state officers of Administration issued with proper identification.
 - 8. The Flag State Officer shall have the authority to suspend and/or withdraw any Statutory Certificate issued by ROs, in accordance with set procedures, whenever a major non-conformity and/or deficiency was found. All possible efforts shall be made to avoid a ship being unduly detained or delayed.

VI. SPECIFIC PROVISIONS

- 1. An annual list of ships to be inspected and/or audited shall be issued by the Administration through an Advisory, giving priority to ships which are due for drydocking, intermediate survey, or issued

⁹ MSC 92/26/Addendum p. 38

a waiver to dry-dock in ports other than the Philippines by the Administration in accordance with PD 1221.

2. Ships calling in ports of neighboring countries such as Southeast Asia or countries with non-visa requirements shall also be prioritized.
3. In cases of ships not included in the said annual list and will call a port within the Philippines, the company shall notify the Administration through the Maritime Safety Service (MSS) copy furnished the Overseas Shipping Service (OSS) two (2) weeks before the arrival of the ship in the Philippines.
4. Companies with ships included in the annual list mentioned above shall notify the Administration of their ship's expected date of arrival/port of call/date and time of port stay/departure two (2) months prior to the scheduled arrival in the port where survey, inspection and audit may be conducted.
5. The conduct of survey, inspection and/or audit by the Administration may coincide with the scheduled visit of the RO to the ship or the Company. The Administration shall observe the performance of surveys, inspection and/or audits by the RO as part of its oversight function.

VII. REPORTORIAL REQUIREMENTS

All shipping companies covered by this Circular shall submit the following documents relevant to the ship subject for survey, inspection and/or audit, as herein specified:

1. Copies of the PSC Inspection Report with findings (deficiency with or without detention) at the soonest possible time but not later than three (3) days after PSC inspection to the MSS copy furnished the OSS, preferably through electronic means;
2. Notice of Drydocking schedule and Class Survey status report; or Voyage Plan for three (3) months.

VIII. FEES AND CHARGES

The following applicable fees shall apply, covering the activities listed in this Circular:

ACTIVITY	FEE
A. Ship Inspection	USD 3,000.00/ship/FSO
B. Ship Audit	USD 3,000.00/ship/FSO
C. Company Audit	USD 1,000.00/audit
D. Recognized Organization Audit	USD 1,000.00/audit

IX. ADMINISTRATIVE SANCTIONS, FINES AND/OR PENALTIES

Companies, shipowners, operators and managers covered by this Circular who violate or fail to comply with the policies/guidelines herein set forth shall be subject to the following administrative fines and/or penalties after due process:

1. Failure of the company to subject the ship to its scheduled survey and inspection in violation of Sec. V.1 of this Circular:

First Violation	PhP 50,000.00
Second Violation	PhP 100,000.00
Third Violation	Php 200,000.00 + Suspension of CPC until ship is subjected to survey/inspection.

2. Violation of reportorial requirements:

First Violation	PhP 50,000.00
Second Violation	PhP 100,000.00
Third Violation	Php 200,000.00 + Suspension of CPC until ship is subjected to survey/inspection.

3. Upon review of audit findings which indicates poor performance of the company resulted to the detention of its managed ship.

First Violation	PhP 100,000.00
Second Violation	PhP 200,000.00
Third Violation	Php 500,000.00

X. REPEALING CLAUSE

Any provision(s) of other MARINA issuances inconsistent herewith is/are hereby modified/amended accordingly.

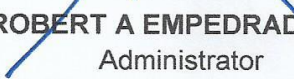
XI. EFFECTIVITY

The survey, inspection and audit of all Philippine Registered Ships Engaged in International Voyages shall commence in July 2020.

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

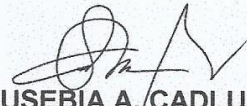
Manila, Philippines, 18 June 2020.

By Authority of the MARINA Board:


VADM ROBERT A EMPEDRAD AFP (RET)
Administrator
Office of the Administrator

Secretary's Certificate

This is to certify that the above-mentioned Memorandum Circular No. MS-2020-02 has been approved during the 277th Regular Meeting of the Maritime Industry Board of Directors held on 18 June 2020.


ATTY. EUSEBIA A. CADLUM-BOCO
Corporate Board Secretary