



**OIL POLLUTION MANAGEMENT FUND (OPMF) COMMITTEE**  
(Established by Republic Act 9483)

NOV 10 2021

**OPMF JOINT MEMORANDUM CIRCULAR**

No. 2021-01

Series of 2021

**TO : ALL OWNERS/OPERATORS/AGENTS OF SHIPS, SEA-GOING VESSEL OR ANY SEA-HOME CRAFT OF ANY TYPE WHATSOEVER CONSTRUCTED OR ADAPTED FOR THE CARRIAGE OF OIL IN BULK AS CARGO.**

**SUBJECT : RULES AND REGULATIONS/GUIDELINES ON THE COLLECTION AND MANAGEMENT OF OIL POLLUTION MANAGEMENT FUND (OPMF) IN RELATION TO (SECTION 22A) OF REPUBLIC ACT (RA) 9483**

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Pursuant to R.A 9483 and its Implementing Rules and Regulations (IRR), the following shall be adopted for the collection and management of OPMF.

**I. OBJECTIVE**

To protect the State's marine wealth in its archipelagic waters, territorial sea contiguous zone and exclusive economic zone, the Philippines adopts internationally accepted measures which impose strict liability for Oil Pollution to ensure efficient collection and proper management of the OPMF.

**II. COVERAGE**

This Circular shall apply exclusively to all owners/operators/agents of any ship, sea-going vessel and sea-home craft of any type whatsoever constructed or adapted for the carriage of Oil in bulk as cargo, whether registered in the Philippines or in foreign.

**III. DEFINITION OF TERMS**

For the purposes of this Circular, the following terminologies are defined:



**"Act"** refers to Republic Act No. 9483, otherwise known as the Oil Pollution Compensation Act of 2007.

**"CLC Certificate"** means a document issued by the MARINA to a ship attesting that an insurance cover or other financial security is in force in accordance with the Act and this IRR.

**"DOTr" "the Department"** means the Department of Transportation;

**"MARINA"** means the Maritime Industry Authority;

**"PCG"** means the Philippine Coast Guard;

**"PPA"** means the Philippine Ports Authority;

**"Affiliate Corporation"** means a corporation that is owned or subject to common corporate control by another corporation and operated as part of the latter's business.

**"Contiguous Zone"** means the zone contiguous to the territorial sea which may not extend beyond 24 nautical miles from the baselines from which the breadth of territorial sea is measured;

**"Contributing Oil"** means crude Oil and fuel Oil as herein defined;

**"Crude Oil"** means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation. It also includes crude Oils from which certain distillate fractions have been removed (which sometimes referred to as "topped crudes") or to which certain distillate fractions have been added (sometimes referred to as "spiked" or "reconstituted" crudes); and

**"Fuel Oil"** means heavy distillates or residues from crude Oil or blends of such materials intended for use as fuel for the production of heat or power of a quality equivalent to the "American Society for Testing and Materials Specification for Number Four Fuel Oil (Designation D 396-69)" or heavier;

**"Delivery or transshipment"** may be used interchangeably for purposes of the OPMF and means the shipment of oil from the depot, oil refinery or other storage facility to the point of destination regardless of any intermediate or intervening points of consolidation, de-consolidation, or change of means of transport of such oil.

**"Incident"** means any occurrence or series of occurrences having the same origin which causes Pollution Damage or creates a grave and imminent threat of causing such damage.



**"Insurance"** means a guarantee of compensation for specified loss or damage issued by an insurance company in exchange for the payment of premium.

**"IOPC Fund"** means the International Oil Pollution Compensation Fund which was established through the 1992 Fund Convention.

**"Other Financial Security"** means a guarantee issued by a bank, or surety contract issued by an insurance company, or a certificate delivered by an international compensation fund, including a Certificate of Cover issued by a P & I Club.

**"Oil"** means any persistent hydrocarbon mineral Oil such as crude Oil, fuel Oil, heavy diesel Oil and lubricating Oil, whether carried on board a Ship as cargo or in bunkers of such a Ship;

**"OPMF"** – shall mean Oil Pollution Management Fund

**"Owner"** means any person registered as the Owner of the Ship, or, in the absence of registration, the person or persons owning the Ship. In case of foreign-registered vessels transshipping oil, owner means the ship agents representing the foreign vessels. However, in case of a Ship owned by **State** and operated by a company which in that State is registered as the Ship's operator, "Owner" shall mean such company.

**"Person"** means any individual or partnership or any public or private body, whether corporate or not, including a State or Government or its constituent subdivisions.

**"Pollution Damage"** means loss or damage caused outside the Ship contamination resulting from the escape or discharge of Oil from the Ship, wherever such escape or discharge may occur: Provided, that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; and

The costs of preventive measures and further loss or damage caused by preventive measures;

**"Preventive Measures"** means any reasonable measures taken by any person after an Incident has occurred to prevent or minimize Pollution Damage,

**"Ship"** means any sea-going vessel and sea-home craft of any type whatsoever constructed or adapted for the carriage of Oil in bulk as cargo. Provided, that a Ship capable of carrying Oil and other cargoes shall be regarded as a Ship only when it is actually carrying Oil and other cargoes in bulk as cargo and during any voyage following such carriage unless it is proved that it has no residues of such carriage of Oil in bulk aboard. The two (2) categories of ship under these Rules are as follows:



**"Philippine Ship"** means a ship as defined in these Rules which has been granted the privilege of flying the Philippine flag; and

**"Ship of foreign registry"** means a ship as defined in these Rules which is not a Philippine registered ship;

**"Regional Trial Court"** means the court of general jurisdiction where an action for compensation on account of Pollution Damage may be filed;

**"Special Drawing Right"** means an international type of monetary reserve currency, created by the International Monetary Fund (IMF) in 1969, which operates as a supplement to the existing reserves of member countries;

**"Slate of the Ship's Registry"** means in relation to registered Ships, the State of registration of the Ship and in relation to unregistered Ships, the State whose flag the Ship is flying.

**"Subsidiary Corporation"** means a corporation in which control, in the form of ownership of majority shares, is in another corporation, called the parent corporation.

**"Terminal Installation"** shall mean any site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated off-shore and linked to such site.

**"Unit in Account"** shall mean to the Special Drawing Account (SDR) as defined by the International Monetary Fund (IMF).

**"1992 Civil Liability Convention"** shall mean the 1992 International Convention on Civil Liability for Oil Pollution Damage or any amendments which have entered into force and which are binding upon the Philippines in accordance with the terms of the Convention.

**"1992 Fund Convention"** means the 1992 International Convention on the establishment of an International Fund for Compensation for Oil Pollution Damage or any amendments which have altered unto- force and which are binding upon the Philippines in accordance with the terms of the Convention.

**"Territory"** refers to the national territory of the Philippines to the landward side of its baselines which comprise the Philippine archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or jurisdiction, including its internal waters as well as the waters around, between and connecting the islands of the archipelago comprising its archipelagic waters, regardless of their breadth and dimensions.



**“Territorial Sea”** refers to that belt of water not exceeding twelve nautical miles surrounding the Philippine archipelago seaward of its baselines as such baseline are delineated by Republic Act No 3046 as amended by Republic Act No. 5446

**“Exclusive Economic Zone”** means that area of the sea extending to a distance of 200 nautical miles from and beyond the baselines of the Philippine archipelago, as such baselines are delineated by Republic Act No. 3046 and amended by Republic Act No. 5446, from which the territorial seas is measured.

**“Ship Tonnage”** means the gross tonnage of a ship calculated in accordance with the tonnage measurement regulations as provided in the International Convention on Tonnage Measurement of Ships 1969.

**“High Seas”** means open waters of an ocean or sea, beyond the waters over which the Philippines exercises jurisdiction or sovereignty.

#### **IV. COLLECTION OF OIL IMPOST**

Owners and operators of tankers and barges (or any mode of transportations) hauling Oil in Philippine waterways and coastwise shipping routes shall pay the impost provided under Section 22a of RA 9483.

1. Procedures for the Collection and Deposit/Remittance to the OPMF (Rule X Section 1):
  - a. Contributions of owners and operators of tankers and barges hauling oil in Philippine waterways and coast wise shipping routes.
  - b. During its first year of existence, the Fund shall be constituted by an impost of ten centavos (10c) per liter for every delivery of transshipment of oil made by tanker barges and tanker haulers.
  - c. For the succeeding fiscal years, the amount of contribution shall be jointly determined by MARINA, other concerned government agencies, and representatives from the owners of tankers barges, tankers haulers, and Ship hauling oil and/or petroleum products.
  - d. From the date of effectivity of this Circular, the OPMF shall be constituted through an impost of levy of ten centavos (0.10) per liter, computed using volume at 15 degrees centigrade, for every delivery or transshipment of oil received by tanker barges or tanker haulers from an oil depot, refinery, or other storage facility for carriage to its point of destination regardless of any intervening or intermediate point for consolidation, de-consolidation or change of means of transportation of such. The impost maybe reduced or increased in the succeeding years as may be determined by the OPMF committee.



- e. Shipowners/operators shall prepare a Cargo Statement Report (CSR), or any equivalent document duly signed by the master of the ship and the cargo owner, and an electronic copy thereof shall be furnished the MARINA Regional Office (MRO) where the oil shipment was loaded, within five days from the date of loading.
- f. Owners and operators of tankers and barges hauling oil in Philippine waterways and coastwise shipping routes shall pay the amount of their contributions under this Section to the MARINA Central Office (MCO) or to any of MARINA MROs within 60 days from the submission of the CSR. The hard copy of the CSR from the previous month shall be submitted to the MCO/MRO together with the payment of impost. Provided that for a foreign-registered vessel, it shall not be issued a departure clearance unless the ship agent has paid the applicable impost.

Loading of oil in bulk in economic zone authorities shall also be subjected to payment of impost under the circular.

- g. Contribution shall be computed based on the rate prescribed herein and the number of liters of oil delivered/transported as reflected/ reported in the CSR submitted to MARINA. The CSR shall be supported with copies of the bill of lading or any equivalent document issued for the month.
- h. MARINA Collection/Accountable Officers shall deposit in tact all OPMF collections received for a particular day the OPMF Fund Account immediately on the next day following the collection.
- i. MARINA Collecting/Accountable Officers in the MROs shall submit to the MARINA Central Office Accounting Division a Monthly Report of OPMF Collection and Deposits.

## 2. Transfer/Disbursement of Funds:

Immediately upon receipt of report of any oil spill incident requiring an oil spill response, the PCG shall submit a request to MARINA for the disbursement of an initial fund to be used for such oil spill response, and the MARINA shall then transfer to the PCG the amount covering the initial mobilization requirements for the containment and recovery for that particular oil spill incident.

The amount transferred shall be considered as a Revolving Fund by the PCG for that particular oil spill.

The PCG shall request MARINA for the replenishment of the Revolving Fund when the utilization has reached at least 75% of the total amount.

Disbursement or payment of expenses relative to the containment, removal and clean-up operations undertaken by other government agencies/offices or private companies shall be made by the PCG.



Any unexpended portion of the revolving fund requested shall be refunded to the OPMF.

An audited report of disbursement shall be prepared and submitted by PCG to the MARINA within 90 days after the termination of an oil spill/incident response operations.

The PCG shall design a request and disbursement form for easy auditing and accounting of the fund.

3. Disbursement Procedures on the 10% of the OPMF Fund:

MARINA, PCG, PPA, DOE, DENR-EMB and other concerned government agencies/offices shall submit to the OPMF Committee annual plans and budget estimates covering enforcement, monitoring and research activities.

Annual Plans and Budget estimates for research, enforcement and monitoring activities shall be submitted to the OPMF for approval.

Any new research proposal, in addition to the annual plan may be submitted to the OPMF Committee for approval.

Transfer of funds for enforcement and monitoring activities shall be on a quarterly basis and in accordance with the Annual Plans and Budget.

All transfer of funds shall be approved by the OPMF Committee.

4. Reimbursement to the OPMF

MARINA shall be provided with a copy of any decision/order issued by the RTC on the settlement of claims for compensation for pollution damages.

PCG shall prepare claim requirements and file appropriate action with the RTC in accordance with Section 3, Rule II of the IRR of RA 9483.

5. Audit of the OPMF

The OPMF shall be subject to the usual audit procedures by the Commission on Audit (COA).

6. Reporting

The MARINA, as the administrator of the OPMF, shall prepare the following quarterly reports and submit the same to the Secretary of the DOTr, the members of the OPMF Committee and other concerned government offices:

- a. Collection and Deposit
- b. Disbursement
- c. Status of Funds



MARINA shall submit financial reports as required by COA, Bureau of Treasury and Department of Budget (DBM) and Congress.

#### **IV. FINES AND PENALTIES**

Any violation of this Circular shall be dealt with in accordance with the existing MARINA Omnibus Rules and Regulations on Fines and Penalties and/or the Fines and Penalties as provided for under the Implementing Rules and Regulations of RA 9483.

#### **V. REPEALING CLAUSE**

All MARINA Circulars inconsistent herewith are modified or repealed accordingly.

#### **VI. APPLICABILITY of RA 9483 and its IRR**

Nothing in the provisions of this Circular shall repeal, amend, or modify the provisions of RA 9483 and its IRR. In case of conflict, the provisions of RA 9483 and its IRR shall prevail.

The provisions of RA 9483 and its IRR are hereby made integral part of this Circular.

#### **VII. SEPARABILITY CLAUSE**

Should any provision or part of this Circular be declared by competent authority to be invalid or unconstitutional, the remaining provisions or parts hereof shall remain in full force and in effect and shall continue to be valid and effective.

#### **VIII. EFFECTIVITY**

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

Manila, Philippines, NOV 10, 2021.

**BY AUTHORITY OF THE OPMF COMMITTEE:**

  
**VADM ROBERT A EMPEDRAD AFP (Ret)**  
OPMF Committee Chairman



## SECRETARY'S CERTIFICATE

This is to certify that the OPMF Committee Circular No. 10-06-2021-0002 has been approved by the OPMF Committee during its 7th Regular Committee Meeting held on 06 October 2021.

  
**ATTY. MAXIMO I. BANARES, JR.**  
Head, OPMF Secretariat

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