

[MARINA CIRCULAR NO. 2013-04, January 18, 2013]

OMNIBUS RULES ON THE ISSUANCE OF SPECIAL PERMIT FOR THE TEMPORARY UTILIZATION OF PHILIPPINE-REGISTERED SHIPS WHETHER TRADING OVERSEAS OR DOMESTIC

Pursuant to Presidential Decree No. 474, Executive Order No. 125, as amended, and Sec. 6, Chapter III of the Republic Act (R.A.) No. 9295 and Sec. 6, Rule III of its Revised Implementing Rules and Regulations (R-IRR), the following rules shall govern the grant of Special Permit for the temporary utilization of Philippine-registered ships whether trading overseas or domestic:

I. OBJECTIVE

- A. To promote the competitiveness of Philippine-registered ships by providing flexibility to their operation; and
- B. To provide omnibus guidelines in the evaluation for the grant of Special Permit to allow Philippine-registered overseas ships to operate within the national territory and the domestic ships in international waters

II. COVERAGE

A. Philippine-Registered Ships in the Overseas Trade

All overseas shipping companies accredited under MARINA Memorandum Circular No. 181, or its subsequent amendments intending to temporarily utilize Philippine-registered ships in the national territory.

B. Philippine-Registered Ships in the Domestic Trade

This rule shall apply to all domestic owners/operators accredited under MARINA Circular 2006-03, or its subsequent amendments, operating Philippine-registered ships documented for domestic trade/operation as follows:

- 1. Ships that shall engage in the Brunei-Indonesia-Malaysia-Philippines (BIMP)-East ASEAN Growth Area (EAGA);
- 2. Ships that shall engage in activities as dredging, cable-lying, etc. or for conduction purposes; and
- 3. Ships that will be drydocked or repaired abroad.

III. DEFINITION OF TERMS

- 1. **ADMINISTRATION** – shall mean the Maritime Industry Authority (MARINA);
- 2. **DATE OF LAUNCHING** – shall mean the date when the newly-built ship is released into the water;
- 3. **DOMESTIC OPERATION** – shall refer to the utilization of ship of any type within the Philippines;

4. **DOMESTIC TRADE** – shall refer to the sale, barter or exchange of goods, materials or products within the Philippines;
5. **TRAMPING OPERATION/SERVICE** – shall refer to the operation of a ship which mostly does not run in any regular line but takes cargo wherever the shippers desire, is hired on a contractual basis, or chartered by any one or few shippers, under mutually agreed terms and usually carries full cargoes or bulk commodities;
6. **LINER OPERATION/SERVICE** – shall refer to the operation of domestic water transportation which publicly offers its services without discrimination to any user, has regular ports of call;
7. **DOUBLE HULL SHIP** – shall mean a ship constructed with wing tanks or spaces that extend for the full depth of the ship's side and arranged such that the cargo tanks are located inboard of the moulded line of the side shell plating and has a double bottom tank;
8. **NATIONAL TERRITORY** – as defined in Article I of the 1987 Constitution of the Republic of the Philippines;
9. **SHIP OR VESSEL** – which may be used interchangeably shall refer to any kind, class or type of craft or artificial contrivance capable of floating in water or as such, designed to be used, or capable of being used, as a means of water transport within Philippine territorial waters for the carriage of passengers or cargo, or both, utilizing its own motive power or that of another.;
10. **LONG-RANGE IDENTIFICATION AND TRACKING (LRIT)** - shall mean the system that provides for the global identification and tracking of ships in accordance with SOLAS Chapter V/Regulation 19-1;
11. **TANKER** – refers to ship constructed or adopted for the carriage in bulk of liquid cargoes of an inflammable nature;
 - 11.1 **CHEMICAL TANKER** – refers to a ship constructed or adapted for the carriage in bulk of any liquid products listed in Chapter 17 of the International Bulk Chemical code or its subsequent amendments;
 - 11.2 **GAS CARRIER** – refers to a ship constructed or adapted for the carriage in bulk of any liquefied gas or other products listed in chapter 19 of the International Gas Carrier Code or its subsequent amendments;
 - 11.3 **OIL TANKER** – refers to a ship constructed or adapted primarily to carry in bulk in its cargo spaces and includes combination carriers, any Noxious Liquid Substance (NLS) tanker as defined in Annex II of the present MARPOL Convention and any gas carriers as defined in Regulation 3.20 of Chapter II-1 of SOLAS '74, as amended, when carrying a cargo or part of oil in bulk.;
 - 11.4 **TANKER BARGE** – refers to the general name given to a flat bottomed, propelled or non-propelled, rigged or unrigged craft of full body and heavy construction especially adapted for the transport and/or storage of oil, chemical, noxious liquid substance (NLS), gasses and other inflammable, hazardous and pollutant cargo;
12. **VESSEL AGE** – shall mean the age of the ship reckoned from ship's date of launching based on the Builder's Certificate or Certificate of Vessel Registry.

IV. GENERAL PROVISIONS

1. A Special Permit from the Administration shall be secured in accordance with the rules set under this Circular;
2. The issuance of Special Permit for Philippine-registered overseas ships to operate within the national territory shall be allowed if there is no available and suitable Philippine-registered ship operating within Philippine territorial waters for domestic trade to meet the specific shipping requirements of the shipper or consignee as endorsed by the concerned Shipping Association;
3. The issuance of Special Permit for Philippine-registered domestic ships to operate in international voyages shall be allowed following the regulations in item V.B of this Circular;
4. Only companies/entities duly accredited by the MARINA under MARINA Circular No. 181 or MARINA Circular No. 2006-03, or their respective subsequent amendments can apply for issuance of Special Permit;
5. Application for issuance of Special Permit provided under this Circular for the temporary utilization of Philippine-registered domestic ships for international voyages shall be filed with the Overseas Shipping Office (OSO), with the submission of all the documentary requirements as specified in item VI-B, and payment of the corresponding processing fee as specified in item VII-B;
6. Application for issuance of Special Permit for ships that shall engage in the Brunei-Indonesia-Malaysia-Philippines (BIMP)-East ASEAN Growth Area (EAGA) may be filed with the MARINA Regional Office (MRO), with the submission of all the documentary requirements as specified in item VI-B, and payment of the corresponding processing fee as specified in item VII-B;
7. Application for issuance of Special Permit provided under this Circular for the temporary utilization of Philippine-registered overseas ships for domestic trade within the national territory shall be filed with the Domestic Shipping Office (DSO), with the submission of documentary requirements in item VI-A and payment of corresponding processing fee as specified in item VII-A.
8. All those covered by this Circular shall indicate in their application for issuance of Special Permit the service(s) it proposes to offer and the routes, location or area of operation;
9. The issuance of a Special Permit shall be valid for one (1) month up to a maximum of three (3) months per issuance renewable for the same period but shall not exceed one (1) year.
10. All applications filed under this Circular shall have a valid Contract, Fixture Note or Contract of Affreightment or Time or Voyage Charter Contract and shall be favorably endorsed by the appropriate government agencies;
11. All concerned companies shall submit to the Administration the Entry and Exit Clearance documents issued by the Bureau of Customs (BOC) to prove the actual arrival and departure date of the vessel/rig to and from the Philippines;
12. Paragraph IV.11 shall not apply to ships covered by a Special Permit the Contract for which requires trips to the Philippines and back for the duration of the Contract; whereby only the initial departure date from and final arrival clearances to the Philippines shall be required; and
13. All Philippine-registered overseas ships covered under this Circular shall submit to the Administration the LRIT (Long Range Identification and Tracking) conformance Test Result.

V. SPECIFIC PROVISIONS

A. Philippine-Registered Ships in the Overseas Trade (Overseas to Domestic)

1. There is no age requirement except for tankers carrying oil in bulk which should not be more than 15 years old;
2. Tanker ship carrying oil in bulk must be double-hulled;
3. Ships must be IACS-class;
4. All statutory certificates are valid at the time of application;
5. A shipping company is a legal entity compliant to Philippine laws, particularly in relation to capitalization and ownership structure, as well as applicable taxes.

B. Philippine-Registered Ships in the Domestic Trade (Domestic to Overseas)

1. Only those ships classed by MARINA-accredited or recognized classification society may be granted a Special Permit, except wooden-hulled ships which are engaged in barter trading/border crossings between the specially designated points in the Southern provinces of Mindanao and Palawan. The ship's class shall be maintained for the duration of the ship's Special Permit;
2. The ship shall, at all times during its temporary overseas operation be manned completely by Filipinos with valid certificates and licenses, including the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) Certificates or the Certificate of Competency (COC) (for international trade) in accordance with national and international regulations;
3. Only lawful cargoes shall be carried on board the ship and it shall be the duty and responsibility of the owner/operator to make sure that such cargoes have all the necessary documents and clearance/approvals required by appropriate government agencies;
4. A ship with passenger accommodations may be allowed to carry documented passengers, whether paying or non-paying up to the maximum authorized capacity provided they are covered by insurance;
5. The ship shall, at all times during its overseas operations, have valid international trading certificates and other required safety documents;
6. The Special Permit issued shall, upon the ship's reversion to domestic operation, be considered automatically suspended, and the owner/ operator shall inform the Administration of the ship's reversion to domestic operation within five (5) days from such reversion.
7. In the case of a bareboat chartered ship, the grant of Special Permit shall be conditioned on its being utilized in the domestic trade for an aggregate period equivalent to one half (1/2) of the bareboat charter period as approved by MARINA, except for those ships that will be utilized in the East ASEAN Growth Area (EAGA);
8. The owner/operator of the above-mentioned ship shall comply with any directive/order that may be issued by the Administration and abide by all existing laws, orders, decrees, rules and regulations in connection with its overseas operations, particularly those pertaining to the Department of Finance and the Bureau of Customs relative to its exit from and entry in any port of the Philippines;
9. In case of accidents, damages or losses, the owner/operator shall assume full responsibility to the proper authorities for all consequences arising from negligence, disregard of duty and violations of law; and
10. The company shall comply with the relevant laws, rules and regulations of the Philippines pertaining to Philippine-registered ships, their operations,