

[MARINA ADVISORY NO. 2013-05, May 23, 2013]

**GRANT OF PROVISIONAL RELIEF IN THE FORM OF A TEMPORARY
AUTHORITY TO OPERATE PENDING RESOLUTION OF THE
APPLICATION FOR ISSUANCE OF CERTIFICATE OF PUBLIC
CONVENIENCE (CPC) PURSUANT TO REPUBLIC ACT NO. 9295**

This Authority is cognizant of the fact that in relation to applications for the issuance (original/new, extension, renewal or amendment) of a Certificate of Public Convenience (CPC), the grant to the applicant of a temporary authority to operate the vessel/ship subject of the application during the pendency of the application, which temporary authority is in the form of a Special Permit under MARINA Memorandum Circular No. 2006-006, has created a policy gap in the sense that the said Special Permit can only be availed of or secured by an applicant who is already an existing CPC holder, thus depriving an applicant for an original or new CPC the same opportunity to be allowed to temporarily operate pending resolution of its application.

It is noted that this policy gap is addressed by Rule 13, Part I of MARINA Memorandum Circular No. 74-A which, although issued prior to the Implementing Rules and Regulations (IRR) as well as the Revised IRR of Republic Act (RA) 9295, has not been repealed either expressly or impliedly by the two latter Rules, the said latter Rules having no provision irreconcilable with the former, particularly Rule 13, Part I thereof. Said Rule 13, Part I of MARINA MC 74-A allows the grant of a provisional relief (where the kind of relief that may be granted is dependent on what is prayed for hence, may include that in the form of a temporary authority to operate the vessel/ship subject of the application) to the applicant during the pendency of the application without the requirement that the applicant be an existing CPC holder.

It is for the above consideration, in addition to the fact that there are observed definite distinctions between a Special Permit under MARINA MC 2006-006 and MARINA MC 74-A, that it is hereby adopted as a uniform policy for both the MARINA Central Office and its Regional Offices the grant of a provisional relief in the form of a temporary authority to operate the vessel/ship subject of an application, if prayed for and if the grant thereof is warranted, separate and distinct from the grant of a Special Permit.

For guidance and strict compliance.

(SGD) ATTY. NICASIO A. CONTI
Officer-in-Charge
