MANDATORY SUBMISSION OF ANNUAL REPORT: AMENDING FOR THE PURPOSE MARINA MEMORANDUM CIRCULAR NO. 49 AND PROVIDING PENALTIES THEREFOR

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Pursuant to Resolution No. 92-006, Series of 1992, of the Maritime Industry Board, Memorandum Circular No. 49 date July 3, 1989 is hereby amended, as follows:

I
Coverage

Pursuant to section 17 (h) of the Public Service Act (Commonwealth Act No. 146, as amended), all shipping companies, shipowners and operators whose vessel(s) are issued Certificates of Public Convenience (CPC) or Provisional Authorities (PA) wherein one of the terms and conditions stipulated thereon is the required submission of Annual Reports.

II
Date of Submission/Deadline

The annual Report of the immediately preceding year shall be submitted on or before June 30 of each year to the Maritime Industry Authority, at the MARINA Central Office or at any of its Regional Offices, whose territorial jurisdiction covers the principal office of the shipping entities.

III
Required Format

Authorized Operators/CPC holders shall utilize and fill up completely the MARINA prescribed forms which are available for a fee at cost at the MARINA Central Office or at any of its Regional Offices with specific formats for single proprietorship partnership and corporation.

IV
Exemptions

Operators of tugboats and lighters are exempt from submission of Annual Reports since they are exempt from the provisions of the Public Service Act (C.A. 146, as amended).

Operators/companies that have ceased operation(s) for a period of one (1) year or more or have no intention of reviving its service due to decommissioned services, bankruptcy, sale, and transfer of ownership or other reasons amounting to permanent cessation of operation need not submit the required Annual Report; provided, however, that within 15 days after cessation, MARINA is duly notified therefor in writing for monitoring purposes. Nevertheless, unless operations cease on 1 January of each year, operators shall still be required to submit Annual Reports, specifically the traffic report portion, corresponding to the fraction of time of the year prior to final or temporary stoppage. Correspondingly, revival of services before 31 December of each year shall likewise be reflected in an Annual Report.

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Operators/companies who have temporarily ceased operation for one (1) year or more but manifested their intention to continue operations after the vessel(s) or fleet was laid-up, reconstructed, repaired, dry docked, renovated, or their operations affected with legal and financial problems, among other reasons, shall still submit the required Annual Report during the unserviced year/s containing only a financial report reflecting depreciation/ amortization/ maintenance expenses. Further, the cargo and passenger traffic report should indicate the period of non-operation.

V
Penalties

The following penalties shall be imposed for any violation of or failure to comply with the above requirements:

A. For Late Submission — Submission of Annual Report shall be considered late when submitted after the deadline herein set forth regardless of the number of days of delay. For purposes of computing the penalty, a year shall mean the period starting from 1 July of the present year to 30 June of the next year, any fraction of the year shall thereby be considered one year of delay.

For operators with total owned tonnage of 50 Gross Registered (GRT) Tons or less P500.00/ year of delay

For operators with total owned tonnage of 51-100 Gross Registered Tons (GRT) P1,000/ year of delay

For Operators with total owned tonnage of above 100 Gross Registered Tons (GRT) P3,000/ year of delay

Non-payment of the required penalty shall be deemed sufficient basis for the suspension/cancellation of the CPC or any existing authority issued by the MARINA in favor of the company or vessel which is subject of the requirement herein imposed until full payment thereof shall have been made.

Payment of the herein imposed penalty shall not, however, excuse the operator from compliance with the required submission of the Annual Report(s).

B. Blatant and Contumacious Refusal to File Annual Report — Blatant and contumacious refusal to submit Annual Report for at least two (2) consecutive years, shall cause the summary suspension, revocation or cancellation of the Certificate(s) of Public Convenience or any existing authority to operate issued to the vessels subject matter of the required Annual Report in addition to the following penalty:

For operators with total owned tonnage of 50 Gross Registered (GRT) Tons or less P5,000.00

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For operators with total
owned tonnage of 51-100
Gross Registered Tons (GRT) P10,000.00

For Operators with total
owned tonnage of above 100
Gross Registered Tons
(GRT) P25,000.00

C. Misrepresentation of Entries — The filing of a false or fraudulent Annual Report is prima facie evidence or misrepresentation and any operator who submits a false or fraudulent report shall be imposed a penalty of P25,000.00 without prejudice to other sanctions pursuant to the provisions of the Public Service Act, as amended, and the Revised Penal Code.

VI
Transitory Provision

This Circular amends/supersedes Memorandum Circular No. 49, series of 1989. Penalties imposed for violations committees prior to the effectivity of this Circular shall likewise be imposed the penalties provided for under Sections A, B, & C hereof, provided that, the penalties provided herein are lower than those imposed under Memo. Circular 49.

VII
Effectivity

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

Adopted: 18 Mar. 1992

(SGD.) PHILIP S. TUAZON
Administrator

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