SALVAGE REGULATIONS

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I

Authority

A. Republic Act 5173 (Philippine coast Guard Law)

B. Section III of International Maritime Organization (IMO) Manual on Oil Pollution — Salvage 1983.

C. Executive Order No. 292 dated 25 July 1987 Title XIV Sec. 4(8).

D. Department of Justice Legal Opinion No. 246 s. 1989 dated September 18, 1989.

E. PCG Memo-Cir. No. 01-91 dated 8 January 1991.

F. Department of Environment and Natural Resources and Philippine Cost Guard Memorandum of Agreement dated 23 March 1992.

II

Purpose

To prescribe guidelines on the salvage of vessels, including cargoes thereof, wrecks, derelicts and other hazards to navigation.

III
Scope

This Memorandum Circular applies to all salvage operations on sunken, floating or grounded vessels, wrecks, or objects and other hazards to navigation within the territorial waters of the Philippines.

IV
Definition of Terms

For the purpose of this Memorandum Circular, the following terms are defined:

A. Salvage The rescue of a seriously damaged/incapacitated ship and towing her to a safe place; breaking, scrapping, or refloating of a ship or any object; and the removal of a sunken or wrecked ship, derelict, or hazard including cargoes thereof from the waters within the jurisdiction of the Philippines.

B. Salvor A person or entity engaged in the business of salvaging vessels, wrecks, derelicts and other hazards to navigation within the territorial waters of the Philippines with Salvor’s Certificate of Registration (SCR) duly issued by the Philippine Coast Guard.

C. Wreck A vessel or structure, fixed or floating, or any part or appurtenances thereof, which is no longer capable of functioning in the manner of which it was designed or intended.

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D. Hazard Any object which constitutes danger, threat or obstruction to safe navigation.

E. Abandoned Vessel A vessel, wreck, or derelict which is unmanned, deserted, or has no owner/claimant or when the owner has sent notice of abandonment to the Philippine Coast Guard.

F. Port of Registry A place in which the vessel, wreck, or structure is registered or where it was licensed at the time of the casualty, or if unregistered or unlicensed, the place or state of domicile or residence of the owner.

G. Salvor Certificate of Registration A document issued by the PCG accrediting a qualified person or entity as a duly registered salvor.

H. Salvage Certificate of Inspection A document issued by the Coast Guard Station Commander to the applicant salvor attesting that proper survey has been conducted on the object to be salvaged, stating therein pertinent data of the sunken object, and declaring it hazard to navigation.

I. Salvage Permit A permit issued to applicant registered salvor for specific salvage operation by the Commandant, PCG or Commander, Coast Guard District who has jurisdiction over the area of operation.

J. Emergency Salvage Permit A Salvage Permit issued to a salvor by Coast Guard Station Commander with prior clearance/approval of the District Commander for the immediate removal of any sunken objects, grounded vessels, barges and other navigational hazards.

K. Permit to Transport A permit issued to salvors for purposes of transporting salved items.

VGeneral Provisions

A. The Philippine Coast Guard is the sole government agency responsible in the promotion of safety of life and property in the internal or territorial waters of the Philippines. It promulgates and administers regulations in the conduct of salvage of vessels, wrecks, or objects and other hazards to navigation.

B. Only citizens of the Philippines, government-owned or controlled corporations, or corporations which are at least 75% Filipino-owned, and private corporations wholly owned and controlled by such citizens, may engage in the business of salvaging vessels, wrecks, and other hazards to navigation within the internal or territorial waters of the Philippines, and they are the only ones qualified to apply for the Salvor Certificate of Registration issued by PCG and thereafter become bonafide registered salvors.

C. Only duly registered salvors by the Philippine Coast Guard shall be issued a Salvage Permit.

D. No registered salvor may conduct salvage operations without prior issuance of a Salvage Permit or an Emergency Salvage Permit.

E. The salvor shall be liable for any damage to government or private property that may be caused during salvage operations.

F. Nothing herein contained shall be deemed to prohibit any vessel owner from salvaging his own vessel provided that ownership of such vessel shall be reckoned at the time the vessel became the object of salvage.

VISalvor Certificate of Registration

A. Minimum requirements listed in Annex A[*] shall be met by the applicant salvor prior issuance of Salvor Certificate of Registration.

B. Application for Salvor Certificate of Registration shall be in the prescribed form (PCG SCRF-1A) in Annex B* with the following attachments:

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- Department of Trade and Industry Certificate (Single Proprietorship);

- Securities and Exchange Commission Registration Certificate (Corporation or Partnership):

- Community Tax Certificate of applicant;

- NBI Clearance of salvor-applicant;

- Income Tax Return for the last two previous years;

- Listing and statement of condition or reliability of salvage vessel, equipment, machinery and other appurtenances thereof duly certified by authorized PCG personnel;

- Items 1 and 2 above do not apply if salvor is the owner.

C. Qualified applicants shall submit their application for Salvor Certificate of Registration to the Coast Guard District Headquarters nearest to their business address. District Commanders will process the application submitted by the applicant and forward same to CPCG for approval.

D. A Provisional Salvor Certificate of Registration for one year shall be issued to a new registrant, after which, the District Commander shall review and determine the capability and operation of said salvor. Thereafter, a permanent SCR (PCG SCRF-1B) in Annex C * may be issued valid for three years from date of issuance upon favorable recommendation of the District Commander provided, however, that those who were previously registered as salvors should renew their permanent Salvor Certificate of Registration within six months from date of effectivity of this Memorandum Circular.

E. All applications for SCR shall only be approved by the Commandant, Philippine Coast Guard.

VIISalvage Permits

A. Application for Salvage Permit shall be in the prescribed forms (PCG SPF-2C, SPF-3C & SPF-4C) in Annexes E*, F and G * accomplished by duly registered salvors (except Paragraph V sub-paragraph F) and filed at the Coast Guard District Headquarters having cognizance of the area where salvage operations will be conducted attaching thereto the following:

1. For commercial or privately owned vessels derelicts or wrecks (to be submitted in PCG SPF-2C):

- Photo copy of Salvor Certificate of Registration (SCR).

- Certificate/proof of ownership;

- Salvage contract or agreement between salvor and owner;

- Two 5" x 7" size pictures of different projected views of object to be salvaged, if available;

- Specific description, gross tonnage, and identification of the object to be salvaged;

- Statement of inventory of vessels, equipment, tools and paraphernalia that will be used in the salvage operations;

- Official Receipt of payment of the application fee;

- Detailed plan of salvage work to be conducted and the approximate date of completion; and

- Clearance from the Firearms and Explosives Unit, PNP (if salvor will use explosives).

2. For World War II and pre-WW II vessels, military and other government-owned vessels, derelicts or objects (to be submitted in PCG SPF-2C):

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- Clearance from the Office of the President;

- Certification/award or contract from the appropriate government awarding authority or from CPCG in the absence of interested party;

- Authority or contract from the awardee if salvor is other than the awardee;

- SCR of salvor;

- Two 5" x 7" size pictures of different projected views of the object to be salvaged;

- Statement of inventory of vessels, equipment, tools and other paraphernalia that will be used in salvage operations;

- Official Receipt of payment of application fee; and

- Clearance from the Firearms and Explosive Unit, PNP (if salvor will use explosives).

3. For abandoned vessel or hazards to navigation (to be submitted in PCG SPF-3C):

- Salvage Certificate of Inspection (PCG SPF-1C) in Annex D;

- Two (2) 5" x 7" size pictures of different projected views of the object to be salvaged, if available;

- Specific description, gross tonnage, identification of the object to be salvaged if known and its exact location;

- Statement of inventory of vessels, equipment, tools and other paraphernalia that will be used in the salvage operations;

- Official Receipt of payment of application fee;

- Clearance from the Firearms and Explosives Unit, PNP (if salvor will use explosives);

- Detailed plan of salvage work to be conducted and the approximate date of completion;

- Estimated value of vessel/object to be salvaged;

- Performance bond from an accredited Bank/Insurance Company equivalent to Ten Percent (10%) of the total estimated value of the abandoned vessel/wreck or derelict in favor of the Philippine Coast Guard which shall expire upon completion of salvage operations; and

- Proof of publication in a newspaper of general circulation once a week for two consecutive weeks by the applicant-salvor of all the details of the proposed salvage, statement of markings/identity and quantity of objects, requesting all interested persons to file their claims and/or objections to CPCG (Attention: CG-10).

4. For vessels falling under the Cultural Properties, Preservation and Protection Act (PD 374), the salvor shall secure clearance/permit from the National Museum, in addition to the PCG requirements.

B. A salvage permit shall be issued on the following situations:

1. Salvage of wrecks and derelicts which have become hazards to maritime navigation, especially those which obstruct the sealanes;

2. Salvage of wrecks and derelicts, which may hamper the development of ports and harbors; must be coordinated with PPA for proper identification of wrecks/derelicts before conducting salvage operations;

3. Salvage of wrecks and derelicts under emergency conditions for the safety of life and property at sea; and

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4. Salvage for the value of the cargo; proper customs declaration shall be required and submitted by salvor; monthly report shall be made to the National Museum pursuant to PD 374, copy furnished the PCG Station Commander concerned.

C. The Salvage Permit shall state the specific site of salvage operation (position by latitude and longitude), name of vessel(s), wreck or object to be salvaged and the duration of operation.

D. The Salvage Permit * (PCG SPF-3.1C) in Annex H* shall be issued by the Coast Guard District Commander for the Commandant, PCG (copy furnished CPCG & DENR) for such period as may be appropriate, but not to exceed one year, and may be renewed for justifiable reason. (Salvors, however, may file their applications directly with HPCG if conditions so warrant).

VIIISalvage Operations

A. When explosives are to be used in the salvage operation, clearance from the Firearms and Explosives Unit, PNP shall be secured and the actual use of the same shall be supervised by the Coast Guard Station having jurisdiction over the area where the salvage operation is to be undertaken.

B. In case of salvage of vessels with known cargoes, the salvor shall be required to secure a salvage permit for cargo from the Bureau of Customs before he can be allowed to salvage the cargoes. In cases where cargoes are recovered as an incident to the salvage of vessel, the salvor shall report the matter to the CGD District/Station Commander who has cognizance of the operation, furnishing a copy thereof to the nearest Collector of Customs who shall direct the Salvor to deposit the salvaged cargoes for disposition.

C. Salved items shall be transported with the corresponding Permit to Transport Salved Items (PCG SPF3.2C) in Annex I * issued by the District Commander.

D. Coast Guard Station concerned shall inspect the site to determine whether salvage operation has been completed and shall issue corresponding completion report.

E. In the occurrence of a shipwreck or other similar emergencies, where serious danger to life and property is imminent, such as the grounding of vessels/watercraft at restricted sealanes, channels, busy ports and harbors, the Coast Guard Station Commander concerned shall notify the owner of the vessel of the situation and determine whether or not the owner has the intention to salvage/refloat or tow their vessel to a safe place. Otherwise, the Station Commander may provisionally authorize a salvor, through an Emergency Salvage Permit, with the clearance and authority of cognizant Commander Coast Guard District before conducting salvage operation. Salvors should first inform the owner of the vessel/watercraft to be salvaged to a safer place. A copy of the Emergency Salvage Permit (PCG SPF-3.3C) in Annex J* shall be immediately forwarded by the Station Commander to the District Commander for confirmation within one week thereof. The District Commander shall, thereafter, act on any request for extension of the special permit.

F. Upon termination of the salvage operation, the Salvor shall submit an After-Salvage Operation Report to CPCG thru channels (CGS and CGD) using format PCG SPF-3.4C in Annex K* attaching thereto the following:

1. Inventory of salvaged items/scrap recovered;

2. Inventory of the explosives used and at hand; and

3. Statement of expenditures incurred in the operation.

G. In case of oil spill during salvage operations:

1. The master of the vessel (spiller) shall immediately notify the PCG District/Station nearest his position giving

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particulars of the incident. The information shall include the names of vessels, location, weather condition, type of spill and quantity or any other information necessary for immediate containment, recovery and clean-up operations.

2. The first response team to arrive at the oil spill scene has the discretion to apply chemical dispersant after all other control methods utilized are judged to be inadequate or not feasible. However, application of such dispersant has some limitations and the training experience, sound judgment and discretion of the On-Scene-Commander or leader may guide him in reaching a decision on its application depending on the actual situation.

3. The spiller shall have primary responsibility of conducting clean-up operations. The PCG shall, however, be responsible for supervising the oil spill response operations and render assistance as necessary. Supervision shall be done by the Station Commander as On-Scene-Commander or any officer designated by the PCG.

H. To support the above emergency procedures in oil spill response operations during salvage, the PCG will enforce requirements mandatory to all vessels engaged in salvage operations. Owner and master of the salvage vessel will provide the following requirements prior to the conduct of salvage operation;

1. Appropriate yardage of boom and number of skimmers;

2. Wooden scupper plugs equivalent to the number of scupper lips and various sizes of wooden plugs for use on possible holes that may develop in the hull;

3. A minimum of 3 kilos of rags and other appropriate sorbent materials;

4. At least 5 open-ended drums with appropriate covers;

5. A PCG approved Oil Water Separating Equipment or filtering system for salvage vessels of 400 GT and above but less than 10,000 GT;

6. An oil discharge monitoring and control system for salvage vessels of 10,000 GT in addition to oily water separating equipment; and

7. Slop tank(s) of adequate capacity to receive the oil residues for salvage vessels of 400 GT and above.

J. The PCG Station Commander concerned, in coordination with Marine Environmental Protection Office (MEPO) in the PCG District, shall supervise the conduct of clean-up operations. In a situation where the spiller fails to react and take immediate action, they shall be made to pay for all expenses incurred by the PCG in the operations. In addition, the PCG Station Commander will require a CASH BOND to cover clean-up and containment costs as prescribed in Memo-Cir No. 01-91 dated 8 January 1991. The Cash Bond shall also cover estimated amount for the extent of damages to properties and payments for deprived income to affected areas/populace as a result of an oil spill.

IX
Fees

A. Application Fee for SCR — P500.00

B. Salvor’s Certificate of Registration (SCR) — P2,500

C. Renewal of SCR — P 2,500.00

D. Application Fee for Salvage Permit — P200.00

E. Application for Salvage Certificate of Inspection — P500.00

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F. Salvage Permit Fees:

- 500 tons or less - P1,000.00

- Over 500 tons but less than 5,000 tons — P1,500.00

- Over 5,000 tons but less than 10,000 tons — P2,000.00

- 4Over 10,000 tons — P2,5000.00

G. Extension/renewal fee of Salvage Permit — Same as para E above.

XAdministrative Fines and Sanctions

Non-compliance or violation of the provisions of this Memorandum-Circular shall be meted with the following:

A. Any person, entity, or company unlawfully engaged in the business or operation of salvaging vessels, wrecks, derelicts, and other hazards to navigation or of salvaging cargoes carried by sunken vessels, without a salvage permit issued by the CG District Commanders shall upon determination thereof, be fined as follows:

1. First Offense — A fine of not less than P5,000.00 and not more than P10,000.00 upon the person, operator or company and/or reprimand or suspension of not more than 6 months from exercise of marine profession/Salvor's Certificate of Registration.

2. Second Offense — A fine of not less than P10,000.00 and not more than P15,000.00 upon the person, operator or company and/or suspension for 6 months to one (1) year from exercise of marine profession/Salvor's Certificate of Registration.

3. Third Offense — A fine of not less than P15,000.00 and not more than P20,000.00 upon the person, operator or company and/or revocation or cancellation of marine profession license/Salvor's Certificate of Registration.

B. Any watercraft, equipment, tools, paraphernalia or instruments used in the salvage of vessels, wrecks, derelicts, and other hazards to navigation, as well as the cargoes carried by the vessels which were recovered in violation hereof, shall be impounded and appropriate action taken for its forfeiture in favor of the government.

XIResponsibility

A. Commander, Coast Guard District

1. Issue Salvage Permit;

2. Receive application for issuance of Salvor Certificate of Registration and forward same to CPCG (Attn: CG-10) for processing and approval and maintain salvor files of all registered salvors in the District;

3. Monitor/inspect the progress of salvage operation in their respective areas of responsibility, and maintain case records thereof;

4. Render progress/status report to CPCG (Attention: CG-10);

5. Include salvage operations in monthly accomplishment report to CPCG; and

6. Cancel or suspend the salvage permit for violation of any condition provided thereof.

B. Coast Guard Station Commander

1. Issue Salvage Certificate of Inspection if the object to be salved is a hazard to navigation, or in case such object poses danger to life and property;

2. Issue Emergency Salvage Permit for the immediate removal of vessel or wreck that poses immediate/extreme danger to life and property;

3. Monitor salvage operation in their respective areas of responsibility and maintain case records thereof; and

4. Render proper status report to the District Commander.

C. Assistant Chief of Staff for Navigational Safety (CG-10)

1. Supervise the strict implementation of this Memorandum Circular;

2. Process application for SCR for approval of CPCG;

3. Maintain list of on-going salvage operations;

4. Maintain case records of all salvage operations conducted; and

5. Process application for salvage permit in accordance with paragraph VII sub-para D.

D. Salvor

1. Ensure the smooth and safe salvage operation with due regard to safety of person and the marine environment;

2. Ensure the complete removal of all wrecks, derelicts or other hazard to navigation as stipulated in the salvage contract; and

3. Submit After-Salvage Operations Report to Coast Guard District Commander who issued the Salvage Permit.

XIIRescission Clause

All Memorandum Circulars inconsistent with this Memorandum Circular are hereby rescinded.

XIIIEffectivity

This Memorandum Circular shall take effect upon publication.

Adopted: 5 Aug. 1993

(Sgd.) CARLOS L. AGUSTIN
Commodore AFP

Annexes

ANNEX "A"

Minimum Requirements of Applicant Salvor Prior Issuance of Salvor Certificate of Registration
A. Salvage Vessels:

1. One (1) unit Salvage Barge equipped with boom and crane

2. One (1) unit Motor tugboat, steel or wooden of not less than 300 H.P.

B. Salvage Personnel/Equipment:

1. Minimum of six (6) divers, (Regular employees of the company with diving equipment)

2. Minimum of two (2) units submersible pumps

3. Minimum of two (2) unit gasoline pumps

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4. Minimum of two (2) units diesel pumps

5. Magazine for storage of explosives

6. Air compressor

7. Welding and cutting equipment with complete accessories

8. Towing and pulling equipment

9. Communication set

10. First Aid Kit

Annexes B to K [*]

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* Text available upon request at the Office of the National Administrative Register (ONAR), U.P. Law Center, Diliman, Quezon City.

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