



Republic of the Philippines
DEPARTMENT OF TRANSPORTATION



MARITIME INDUSTRY AUTHORITY

Memorandum Circular No. SC-2021 -02
Series of 2021

**TO : ALL MARITIME TRAINING INSTITUTIONS (MTIs),
ASSESSMENT CENTERS (ACs), MARITIME
INDUSTRY STAKEHOLDERS AND OTHER PARTIES
CONCERNED**

**SUBJECT : REVISED RULES ON THE MONITORING OF
APPROVED TRAINING COURSES (ATCs)
CONDUCTED BY THE MARITIME TRAINING
INSTITUTIONS (MTIs), AND ASSESSMENT OF
SEAFARER'S COMPETENCE CARRIED OUT BY
ACCREDITED ASSESSMENT CENTERS (ACs)**

Pursuant to Presidential Decree No. 474, Republic Act No. 10635 and its Implementing Rules and Regulations (IRR), and the International Convention of Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, as amended, the following rules are hereby adopted:

ARTICLE I OBJECTIVES

Section 1. To prescribe policies, rules, and procedures on the monitoring of approved training courses (ATCs) and assessment of competence of seafarers carried out by MTIs and ACs, respectively.

Section 2. To implement the requirements under Regulation I/6 "Training and Assessment" and Regulation I/8 "Quality Standards" of the STCW Convention, 1978, as amended on the monitoring of the approved training courses and assessment of activities of seafarers, among others.

Section 3. To ensure compliance of the MTIs and ACs offering approved training courses, and assessment activities with the requirements of the STCW Convention, 1978, as amended and the existing Philippine laws, rules, and regulations.

ARTICLE II COVERAGE

Section 4. This Circular shall apply to all Approved Training Courses, and Assessment Activities conducted by MTIs and ACs respectively in accordance with the following chapters of the STCW Convention, 1978, as amended.

1. Chapter II - Master and Deck Department
2. Chapter III - Engine Department;
3. Chapter IV - Radio Communication and Radio Operators;
4. Chapter V - Special training requirements for personnel on certain types of ships; and
5. Chapter VI - Emergency occupational safety, security, medical care, and survival functions.

ARTICLE III DEFINITION OF TERMS

Section 5. For purposes of this Circular, the following terms shall be defined as:

1. **Annual Monitoring Program** – refers to an approved document containing among other things, schedules of monitoring activities planned for a calendar year, and the composition of monitoring team approved by the Administrator;
2. **Approved Training Course (ATC)** – refers to a training course relevant to specific competencies, as established and approved by the Administration;
3. **Assessment** – refers to the process of evaluating evidence of competence through one or more of the methods of demonstrating competence (Column 3 of the tables) under the STCW Code;
4. **Assessment Center (AC)** – refers to a maritime institution recognized and approved by MARINA to conduct the practical assessment for issuance of STCW Certificates;
5. **Assessment of Competence** – refers to the process of collecting evidence through theoretical and practical assessment of the knowledge, understanding, and proficiency gained from one or more of

the following: approved education and training; approved training ship experience; approved simulator training; approved laboratory equipment training; approved in-service, and making judgment on whether competency has been achieved to confirm that an individual can perform the standards in the relevant tables of standards of competence of the STCW Code;

6. **Correction** – refers to the immediate action to address the finding;
7. **Corrective Action** – refers to the long-term plan of action to eliminate the cause of the finding and to prevent recurrence;
8. **Evaluator** – refers to a qualified person duly authorized by the Administration to conduct monitoring and evaluation of ATCs and assessment of seafarer's competence;
9. **Follow-up Verification** – refers to the follow-up visit to the institution to verify and validate the implementation and effectiveness of actions undertaken in addressing the observations and/or non-conformances;

The follow up Verification shall follow the same procedure as far as practicable as in the conduct of regular monitoring.
10. **Lead Evaluator** – refers to the Team Leader of the Monitoring Team who is responsible for managing the operations of the monitoring activities and ensuring that applicable standards and requirements are observed by the members of the Monitoring Team;
11. **MARINA or Administration** – refers to the Maritime Industry Authority (MARINA), as the single government agency mandated to ensure complete and effective implementation of the STCW Convention, 1978, as amended, or simply the "Administration" as referred to under the STCW Convention;
12. **Maritime Training Institution (MTI)** – refers to an institution that provides an approved training course;
13. **Monitoring** – refers to the process of evaluating, through a pre-determined schedule, the effective conduct and delivery of approved courses or assessment activities in accordance with the prescribed standards of the Administration to ensure achievement of defined

objectives and outcomes;

14. **Monitoring Finding Report (MFR) Form** – refers to a quality form used by the Administration to record the official findings during the monitoring activities;
15. **Monitoring Log and Report (MLR)** – refers to the quality form used by the Monitoring Team to record all the facts noted during the monitoring activity;
16. **Monitoring Plan** – refers to a quality form that contains the monitoring activities and arrangements for specific MTI or AC;
17. **Monitoring Team** – refers to a group of evaluators authorized to conduct monitoring of ATCs and assessment of competence of seafarers carried out by MTIs and ACs;
18. **Non-conformance** – refers to a deficiency or failure to maintain compliance with prescribed standards and requirements or a deviation from standard norms, processes, and procedures, substantiated by objective evidence that leads to failure in achieving defined program objectives and outcomes. An Observation finding that is not acted upon within the required period may likewise be elevated to a Non-Conformance;
19. **Noteworthy Effort** – refers to an initiative or initiatives undertaken by the institution to achieve higher level of qualitative results (e.g. best practices that resulted towards further improvement of expected outcomes);
20. **Objective Evidence** – refers to verifiable qualitative and quantitative information, documents, records of statement of facts based on observation, test or measurement;
21. **Observation** – refers to a single observed lapse in an internal requirement that, however, does not jeopardize product or service quality based on objective evidence. It is something that could lead to non-conformance if not properly addressed within a specified period or a finding without clear evidence to verify that it constitutes a non-conformance;

22. **Observer** – a person authorized by the Administration to join a monitoring team but should not interfere or influence the monitoring activity;
23. **Opportunity for Improvement (OFI)** – refers to a process, activity or document that is currently conforming that may, if not improved, result in a non-conforming system or service;
24. **Outcomes-based Monitoring Instrument (OBMI)** – refers to the quality form used by the Monitoring Team as a guide and recording tool during the conduct of monitoring;
25. **Preventive Suspension** – refers to an immediate, outright, on-the-spot measure of the Administration to stop an MTI or AC from conducting an ATC or assessment of competence of seafarers upon finding of commission of a non-conformance as indicated in this Circular and until the noted findings have been corrected or rectified;
26. **Prohibited Act** – refers to acts which are inimical to public interest committed by institution or person, such as those stipulated under Section 8.3 of the IRR of RA No.10635. This likewise refers to non-conformance findings not acted upon within the required timeframe as provided in this Circular;
27. **Quality Standards System (QSS)** – refers to an established system, documented policies, procedures, controls, and internal quality assurance, which covers, but is not limited to, training and assessment of competence. The QSS is established as a mechanism to monitor and ensure the achievement of defined objectives of the ATC and assessment of competence per the STCW Convention, 1978, as amended;
28. **Root Cause Analysis** – refers to a process of determining the reason for a non-conformance or observation or why it occurred to identify appropriate corrective actions; serves as an input to remediation process, whereby corrective actions are taken to prevent the problem from recurring;
29. **Show Cause Order** – refers to an order issued by the Administration directing the respondents to answer the allegations against it and appear before the Administration and explain why a specific action

should not be taken against it;

30. **STCW Convention** – refers to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), of 1978, as amended, and its associated Code, including the 2010 Manila Amendments;
31. **STCW Office** – refers to the office in MARINA, specifically tasked to give full and complete effect to the implementation of the STCW Convention, 1978, as amended;
32. **Technical Evaluator** – refers to a qualified person who possesses the qualifications specified in this circular appropriate to the ATCs, or its functions or modules and Assessment Centers conducting different level of assessment of seafarer's competence to be monitored and is duly authorized by the Administration to conduct monitoring of MTIs and ACs;
33. **Surveillance** – refers to an unannounced/random inspection carried out by MARINA, under RA 10635 and its Implementing Rules and Regulations to verify compliance or reports of non-compliance of all covered institutions with the existing rules and regulation, policies and guidelines, issued by the Administration.

ARTICLE IV GENERAL PROVISIONS

Section 6. Regulation I/8 of the STCW Convention, 1978, as amended requires that all training and assessment of seafarers' competence, among others, shall be continuously monitored through a quality standard system in order to ensure that the defined objectives are achieved. Therefore, the Administration must ensure that monitoring shall be continuously undertaken by evaluators or personnel duly authorized by the Administration.

Section 7. Section A - I/6 of the STCW Code, requires that all training and assessment of seafarer's competence for certification under the Convention, among others, shall be structured per written programs, including such methods and media of delivery, procedures, and course materials as are necessary to achieve the prescribed standard of competence. The same shall be conducted, monitored, evaluated and supported by persons duly qualified by the Administration.

Section 8. The monitoring activity shall be conducted guided by an *Outcomes-Based Monitoring Instrument (OBMI)* that focuses on the processes and procedures that are instrumental to the competence outcome of seafarers through the conduct of approved training courses and assessment of competence.

Section 9. The Approved Training Courses (ATCs) conducted by the Maritime Training Institutions (MTIs), and assessment of seafarer's competence carried out by accredited Assessment Centers (ACs) shall be strictly monitored by the Administration at least once every three (3) years based on the approved Annual Monitoring Program.

ARTICLE V QUALIFICATIONS AND COMPOSITION OF THE MONITORING TEAM

Section 10. Qualifications. Every person joining the monitoring team shall possess the following qualifications:

- a. The Lead Evaluator: any member of METSS, may act as Lead Evaluator, provided that they comply with the following requirements:
 1. have successfully completed an ISO 9001 or 21001 Lead Auditor Course;
 2. have a minimum of at least five (5) completed monitoring activities as a member within the last two (2) years;
 3. be knowledgeable of the following:
 - i. ATCs being evaluated;
 - ii. statutory requirements (STCW, Memorandum Circulars)
 4. have signed a statement of no conflict of interest and non-disclosure agreement;
 5. have completed the Training Course for Instructors approved or recognized by MARINA;
 6. have completed a training course on Assessment, Examination, and Certification of Seafarers approved or recognized by MARINA; and
 7. have completed the Training Course for Instructors and Assessors Using Simulators approved or recognized by MARINA.

- b. For Technical Evaluator – the Technical Evaluator must:
1. have completed ISO 9001 or 21001 Internal Quality Auditor Course;
 2. have a minimum number of 3 monitoring activities as a member of the Monitoring Team after completing the Internal Quality Auditor Course with a satisfactory rating from the lead evaluator;
 3. be knowledgeable of the following:
 - i. ATCs being evaluated
 - ii. different level of assessment of seafarer's competence
 - iii. statutory requirements (STCW, Memorandum Circulars)
 4. have signed a statement of no conflict of interest and non-disclosure agreement;
 5. have completed the Training Course for Instructors approved or recognized by MARINA;
 6. have completed a Training course on Assessment, Examination, and Certification of Seafarers approved or recognized by MARINA; and
 7. have completed the Training Course for Instructors and Assessors Using Simulators approved or recognized by MARINA.
- c. Evaluator/s from the Monitoring Division, STCW Office and/or qualified evaluator/s from the MARINA Regional Office where the monitoring will be conducted;
1. have completed ISO 9001 or 21001 Internal Quality Auditor Course;
 2. have a minimum number of 3 monitoring activities as an observer of the Monitoring Team after completing the Internal Quality Auditor Course with a satisfactory rating from the lead evaluator;
 3. be knowledgeable of the following:
 - i. ATCs being evaluated
 - ii. statutory requirements (STCW, Memorandum Circulars)
 4. have signed statement of no conflict of interest and non-disclosure agreement;

Note: Observers joining the monitoring team shall also be required to sign a statement of no conflict of interest and non-disclosure agreement.

Section 11. Composition of the Monitoring Team. The monitoring team of ATCs and assessment of competence of seafarers is composed of the following:

- a. Lead Evaluator; who may also act as a Technical Evaluator
- b. Technical Evaluator(s) who has/have the appropriate technical knowledge and experience corresponding to the ATC or conduct of the assessment of seafarer's competence to be monitored;
- c. Staff who are appropriately qualified based on the existing policies.
- d. A maximum of two (2) observers may be allowed to join the Monitoring Team.

The monitoring team shall consist of a sufficient number of evaluators to ensure that the monitoring is conducted and completed in a satisfactory way within an agreed period.

Section 12. Functions of Lead Evaluator and Team Members. The functions of the Lead Evaluator and Team members are as follows:

- a. Lead Evaluator:
 1. Prepares monitoring plan in coordination with Monitoring Team members and in consideration of the previous monitoring findings;
 2. Ensures the effective and efficient conduct of the monitoring;
 3. Presides opening and closing meetings with MTI or AC officials;
 4. Prepares a final monitoring report in coordination with Monitoring Team members;
 5. Submits final monitoring report to the appropriate STCWO Division or Office;
 6. Carries out ethical and professional monitoring standards;
 7. Supervises, assesses, and endorses observer to be a member of the Monitoring Team;
 8. Conducts follow-up verification, as may be necessary; and
 9. Performs other tasks assigned by the Executive Director.
- b. Technical Evaluator:
 1. Provides technical expertise in monitoring the ATCs and the assessment of competence requirements as stipulated in STCW Convention, 1978, as amended and applicable issuances, circulars or policies of MARINA;
 2. Conducts monitoring according to the monitoring plan;

3. Carries out ethical and professional monitoring standards;
 4. Conducts follow-up verification, as may be necessary; and
 5. Performs other tasks assigned by the Lead Evaluator during the monitoring.
- c. Evaluator/s from the Monitoring Division-STCW Office and/or qualified evaluator/s from the MARINA Regional Office:
1. Coordinates the conduct of monitoring according to monitoring plan;
 2. Conducts monitoring activity according to monitoring plan;
 3. Carries out ethical and professional monitoring standards;
 4. Conducts follow-up verification, as may be necessary; and
 5. Performs other tasks assigned by the Lead Evaluator during the monitoring activity.

Section 13. The monitoring team's composition and the length of the monitoring period will vary according to the location, number, and duration of ATCs or conduct of assessment of seafarers' competence to be monitored.

Section 14. Observers may be allowed to join a monitoring activity. An observer should not influence or interfere during the course of the monitoring.

ARTICLE VI ACCOUNTABILITY OF EVALUATORS

Section 15. The evaluators are the official representatives and alter ego of the Administration. They shall perform their respective roles and tasks with utmost responsibility and accountability and shall observe confidentiality of the monitoring findings, documents, and other information gathered.

Section 16. The evaluator/s shall strictly conduct the monitoring and evaluation according to the provisions of this Circular and other statutory and regulatory requirements.

ARTICLE VII PROGRAMMING AND PLANNING OF MONITORING ACTIVITIES

Section 17. Programming of monitoring activities:

1. The STCW Office-Monitoring Division shall be responsible for the annual programming of monitoring activities for the ATCs and

assessment of competence by using the approved Quality Form.

2. As a general rule, an annual program of monitoring activities should be prepared in the last quarter of the year and approved not later than the 15th day of October of the same year.
3. Upon receipt of the Annual Monitoring Program, the concerned MTIs/ACs shall submit among others the following documents, in electronic or the similar means (cloud storage access), through the email address: (stcw_monitoring@marina.gov.ph) three (3) months before their scheduled monitoring:
 - a. Quality Standards System (QSS)
 - Identified necessary QSS policy and procedures;
 - ISO Certificate;
 - Institutional Development Plan;
 - Minutes of Management Review Meeting;
 - Result of Internal and External Audits.
 - b. Organization, Management, and Support Staff
 - Department, Units, Section involved in the conduct of training and assessment (Organizational Structure);
 - Job Description (Responsibilities) of personnel involved in the conduct of training and assessment.
 - c. Curriculum
 - Approved Course Plan
 - Results of gap analysis
 - Records of validation / pilot testing
 - d. Instructors and Assessors
 - Matrix/Profile of Instructors/Assessors/Supervisors per ATC or assessment of competence, as applicable including Training Certificates, Sea-Service Experience, Teaching Experience;
 - Faculty Teaching Load;
 - Training Plan (for Teaching and Non-Teaching Staff);
 - Result of Performance Evaluation (including Trainee's feedback).

- e. Admission and Registration
 - Enrollment Reports;
 - Medical Certificates.

- f. Teaching Method and Media of Delivery
 - Video recordings of theoretical and practical training.
 - Records of supervision of instruction
 - Records of review, verification and approval of practical exercises
 - Trainees' feedback
 - Copy of training materials

- g. Examination and Assessment
 - Records of Conduct of Practical Assessment;
 - Video recordings on the conduct of practical assessment.

- h. Facilities
 - Information on the main training facilities and equipment used in the conduct of training and assessment;

- i. Equipment and Simulators
 - Licenses/Certificates of Training Equipment and Simulators;
 - Maintenance Records.

- j. Design, Review and Validation; Approval and Control of Assessment Instrument
 - Approved Assessment instruments / scenarios
 - Records of review and revision of the Assessment Instrument
 - Result of item analysis
 - Copy of revised/ improved test items

- k. Conduct of Practical Assessment
 - Records of briefing
 - Records of familiarization

- l. Other documents as may be deemed necessary for the conduct of the monitoring.

Section 18. Order of prioritization. The MTI and AC shall be monitored at least once every three (3) years following a three (3) year monitoring cycle prepare by the Monitoring Division according to the following order of prioritization:

- a. MTIs and ACs who have not been previously monitored;
- b. MTIs and ACs who have been previously found to have committed Prohibited Acts;
- c. MTIs and ACs found to have committed group of non-conformances (NC) during the previous monitoring;
- d. MTIs and ACs with findings which were not addressed within the specified timeframe; and
- e. MTIs and ACs offering numerous ATC and/or assessment of competence.

The Administration may direct the conduct of focused monitoring if based on the result of statistical analysis/evaluation the number of monitoring findings increased in several key areas of evaluation. The focus of monitoring shall be reflected in the monitoring plan.

In exceptional circumstances, approved monitoring schedules might be cancelled or deferred. However, only those scheduled monitoring activities that qualify under the following conditions shall be considered for postponement or rescheduling:

- a. Force majeure;
- b. Any events that may threaten the safety and security of the Monitoring Team;
- c. Any unforeseen events that may render the area inaccessible;
- d. Other analogous circumstances (those which are not under the control of the monitoring team and the institution).

In cases wherein the Lead Evaluator or any of the Technical Evaluator of the Monitoring Team becomes unavailable, STCW Office-Monitoring Division may reschedule the monitoring activity or reconstitute the Monitoring Team's composition. Such rescheduling shall be communicated to the institution by STCW Office Monitoring Division in writing by mail or electronic means through official Monitoring Division email addresses, whichever is most efficient, feasible, and appropriate to the situation.

Request for postponement and rescheduling of monitoring activity should be in writing by mail or electronically submitted through official Monitoring

Division email addresses and filed at least three (3) working days before the scheduled monitoring subject to the approval of the Administration

Section 19. Planning the conduct of monitoring:

1. The Monitoring Team shall prepare the monitoring plan considering each evaluator's assignment, the results of the previous monitoring of the MTIs and ACs, and such other documents or information relevant to the monitoring activity.
2. A monitoring plan shall be prepared using approved Quality Form.
3. The approved monitoring plan shall be transmitted to the MTI and AC at least five (5) working days before the scheduled date of monitoring in writing by mail or electronic means through official Monitoring Division email addresses.

**ARTICLE VIII
CONDUCT OF MONITORING**

Section 20. Every monitoring activity shall include the following processes:

1. Opening meeting
2. Evaluation of the key areas (as may be applicable)
 - a. Quality Standards System
 - b. Organization, Management and Support Staff
 - c. Curriculum
 - d. Instructors and Assessors
 - e. Admission and Registration
 - f. Teaching Method and Media of Delivery
 - g. Examination and Assessment
 - h. Facilities
 - i. Equipment and Simulators
 - j. Design, Review and Validation; Approval and Control of Assessment Instrument;
 - k. Conduct of Practical Assessment
3. Deliberation of findings
4. Closing meeting
5. Acknowledgment of the Monitoring Log and Report

The findings noted during the conduct of monitoring activity including the category of each finding shall be summarized in the MLR. The Lead Evaluator shall then present the MLR to the officials of the institution during the closing meeting. The institution's authorized official shall be required to sign the MLR and be provided with a copy thereof.

In case of nonconformance/observation findings, the institution shall be required to immediately implement, copy furnished MARINA, a correction or interim measure to address the noted findings to ensure that the required learning standards of trainees /assessment candidates are not compromised. The institution shall be further required to submit a corrective action plan 15 working days upon receipt of the MFR.

ARTICLE IX MONITORING FINDINGS

Section 21. Category of Findings. Each finding shall be categorized as "*Noteworthy Efforts*", "*Prohibited Act*", "*Non-conformance*", "*Observation*" and "*Opportunity for Improvement*". Evaluators shall be guided by the definition of the said category of findings in Article III, Section 5 of this Circular.

Section 22. Recording of Findings. The MLR, which contain the summary of findings noted during the monitoring, shall be signed by the institution's authorized officials after the closing meeting. Findings in the MLR should be written incorporating the following key elements:

- a. Applicable standard, policy, procedures, rules, or regulations;
- b. Statement of the deviation and statement of facts or objective evidence;
- c. Category of findings in a specific key area; and
- d. Effects/implications of the deviation.

The monitoring team shall report and record all their monitoring findings, including those that have been instantaneously corrected or rectified.

Further, all monitoring findings, including the findings during the follow-up verification, shall be encoded into the Surveillance, Accreditation and Monitoring (SAM-IS) Database.

**ARTICLE X
ACTION ON THE MONITORING REPORT**

Section 23. Every monitoring finding shall be recorded individually in the MFR. The monitoring team shall prepare the MFR taking into consideration the MLR, OBMI and the objective evidence gathered during the monitoring.

The MFR together with the MLR, OBMI and the objective evidence gathered during the monitoring shall be submitted to the Office of the Executive Director and Deputy Executive Director of the STCW Office within seven (7) working days upon return to the Marina Central Office through the Monitoring Division.

The Monitoring Division of the STCW Office shall ensure that the monitoring report is prepared in accordance with requirements of this circular.

The Office of the Executive Director has seven (7) days from receipt to approve the monitoring report.

The Office of the Executive Director, through the Monitoring Division, shall officially communicate or transmit the MFR to the concerned MTI/AC by mail/postal, electronic communication, or delivery by messenger.

Section 24. Review and Analysis of Monitoring Activities - The Panel of STCW Experts (POSE) composed of all MARINA Maritime Education and Training Standards Supervisors (METSS) shall be furnished with a copy all monitoring reports and related documents to be collated and analyzed for, among others, proposing improvement of monitoring procedure and continual improvement of the Maritime Training and Assessment of Competence of seafarers pursuant to Section 6.5 of the Implementing Rules and Regulations of RA 10635 or its amendment/unless otherwise amended.

**ARTICLE XI
SUBMISSION AND IMPLEMENTATION OF CORRECTIVE ACTIONS**

Section 25. Non-Conformance.

- a. Upon receipt of the MFR, the MTI or AC concerned shall conduct root cause analysis vis-à-vis the Monitoring Team's findings. The institution shall submit to MARINA the accomplished MFR with root causes and corrective action/s including the records of the conduct of root cause analysis within fifteen (15) working days upon the receipt of the MFR.

- b. The institution shall ensure to close out the nonconformance findings within a reasonable period, which shall not exceed one (1) month upon receipt of the MFR. At the end of the one-month period mentioned above, the MTI/AC is required to submit a letter to MARINA, stating that the compliance to the non-conformity has been submitted together with all the supporting documents.
- c. Thereafter, if necessary, a follow-up verification shall be conducted not later than three (3) months from the date of monitoring activity to ensure that the corrective action plan is being implemented and effectively addressing the nonconformity.
- d. If the MTI or AC fails to closed-out the non-conformance finding/s within a reasonable period which shall not exceed one (1) month upon receipt of the MFR or based on clear evidence during the follow-up verification visit, the finding shall, as a consequence, would subject the institution to preventive suspension to conduct the ATC or assessment of competence of seafarers.
- e. Failure to submit the corrective action plan within (15) working days upon the receipt of the MFR or failure to implement the necessary corrective action plan within the prescribed period shall also subject the institution to preventive suspension to conduct the ATC or assessment of competence of seafarers.
- f. The monitoring activity shall be deemed closed upon verification that all the non-conformity had been sufficiently addressed and rectified by the MTI/AC

Section 26. Observation.

- a. The MTI or AC concerned shall conduct root cause analysis vis-à-vis the observation finding/s identified by the Monitoring Team. The institution shall submit to MARINA the accomplished MFR with root causes and corrective action/s, including the records of the conduct of root cause analysis within fifteen (15) working days upon receipt of the MFR.
- b. The institution shall ensure to close out the observation findings within a reasonable period, which shall not exceed one (1) month upon receipt of the MFR. At the end of the one-month period, the MTI/AC is

required to submit a letter to MARINA, stating that the compliance to the observation has been submitted together with all the supporting documents.

- c. Thereafter, if necessary, a follow-up verification shall be conducted not later than three (3) months from the date of monitoring activity to ensure that the corrective action plan is being implemented and effectively addressing the finding.
- d. If the MTI or AC fails to closed-out the observation finding/s within the reasonable period which shall not exceed one (1) month upon receipt of the MFR or based on clear evidence during the follow-up verification visit, the finding shall, as a consequence, result into non-conformance that would subject the institution to preventive suspension to conduct the ATC or assessment of competence of seafarers.
- e. Failure to submit the corrective action plan within (15) working days upon the receipt of the MFR or failure to implement the necessary corrective action plan within the prescribed period shall also subject the institution to preventive suspension to conduct the ATC or assessment of competence of seafarers.
- f. The monitoring activity shall be deemed closed upon verification that all the Observations had been sufficiently addressed and rectified by the MTI/AC.

ARTICLE XII PREVENTIVE SUSPENSION

Section 27. Preventive Suspension – A preventive suspension to carry out particular ATC and assessment of competence shall be meted out to MTI and AC who committed any of the following Non-conformance in addition to Section 8.2 and 8.3 of the IRR of RA 10635:

- a. Conducting or implementing ATC or assessment of competence not in accordance with the approval/accreditation, or any subsequent amendment to such approval/accreditation, granted by the MARINA;
- b. Offering or conducting training courses or assessment of competence with expired MARINA approval;

- c. Presentation of tampered or fraudulent documents or records;
- d. Conducting ATC or assessment of competence of seafarers where required instructors, assessors or other staff requirements are insufficient, unavailable or not competent, at any given time, as prescribed by MARINA.
- e. Hiring, employing or engaging the services of an Instructor, Assessors and Supervisor without or with expired accreditation from the Administration;
- f. Issuing training certificate of completion to trainees without undergoing actual training and passing the assessment;
- g. Conducting trainings and assessment activities other than the location authorized by the STCW Office;
- h. Conducting training in violation of the cease and desist or suspension order of the STCW Office;
- i. Non-functioning training equipment and facilities that lead to the failure of achieving the competence of the trainees;
- j. Conducting ATC or assessment of competence where essential equipment, such as laboratory equipment, simulators, or similar items, are nonoperational, insufficient, or unavailable, at any given time, as prescribed by MARINA.
- k. Use of unlicensed simulators and/or without proof of ownership;
- l. Allowing Instructors to conduct assessment of his own trainees which is intended to be used in qualifying for certification;
- m. Non-compliance with the prescribed course duration;
- n. Deviation from the detailed teaching syllabus and Instructor's Guide for each particular training course without proper notation and justifiable cause;

- o. Failure to correct the non-conformance and observation findings noted by the Inspection or Monitoring Team within the prescribed period in accordance with this circular.
- p. Failure to conduct simulator-based training and assessment in accordance with Regulation 1/12, Section A-1/12, paragraph 7 and 8 of the STCW Convention, 1978, as amended;
- q. Persistent or recurring failure to conduct any of the following:
 - i. Internal Quality Audit (IQA),
 - ii. Management Review,
 - iii. Address a non-conformance finding during IQA and third-party Audit;
- r. Failure to observe the guidelines in the assessment of competence and proficiency as per assessment manual;
- s. Other acts in gross violation of the standards as may be identified by MARINA as required by STCW Convention, 1978, as amended and its associated Code;

The MTI/AC is obligated to assist / facilitate and ensure the immediate transfer of current trainees or candidates affected by the preventive suspension to other maritime training institutions or assessment centers which are compliant to the required training standards.

The monitoring team shall immediately report to the Executive Director, the MTI/AC who are found to have committed the acts mentioned above for the issuance of the necessary letter/order subjecting the MTI/AC to a preventive suspension and to desist from conducting the subject ATC immediately upon receipt thereof which may be lifted upon compliance with the noted non-conformity.

MTI/AC found during the monitoring activity to have committed any of the Prohibited Acts listed in Rule IV, Section 8.3 of the Implementing Rules and Regulations of Republic Act 10635, otherwise known as the "MARINA STCW Administration Act of 2014", shall be immediately reported to the STCW Office Executive Director through the Monitoring Division, who shall subsequently endorse the same to the Legal Division, for appropriate legal action.

**ARTICLE XIII
LIFTING OF PREVENTIVE SUSPENSION**

Section 28. A Preventive Suspension may be lifted upon compliance with the following:

- a. The institution shall request for the lifting of the preventive suspension clearly stating that the noted deficiency in the MFR are completely addressed together with all the necessary documents of compliance to support the same.
- b. A follow-up verification inspection shall be conducted within 30 days upon receipt of the request for the lifting of preventive suspension together with the evidence of compliance on the noted deficiency.
- c. The follow-up verification inspection conducted for the purpose of lifting the preventive suspension shall be conducted preferably by the same monitoring team.
- d. Based on the results of the follow-up verification inspection, the monitoring team shall make a recommendation to the Executive Director through the Monitoring Division if the lifting of the preventive suspension is proper.
- e. If the Executive Director agreed that the lifting of the preventive suspension is proper, he shall then issue the order lifting the preventive suspension indicating the date allowing the MTIs/ACs to resume the conduct of approved training courses or assessment of competence.
- f. The MTI/AC may resume to offer and conduct the approved training course or assessment of competence as indicated in the order.

Thereafter, the concerned MTI/AC may be subjected to random visit by a duly authorized MARINA Surveillance team to verify and ensure continued compliance with the training or assessment standards.

**ARTICLE XIV
APPEAL TO THE ORDER OF PREVENTIVE SUSPENSION**

Section 29. The MTIs or ACs concerned may file an appeal to the Executive Director within ten (10) working days from the issuance of preventive suspension, and copy furnished the Monitoring Division. An affidavit shall

support such appeal under oath bearing the statement of facts and evidence that refutes the adverse findings. The filing of an appeal shall not stay the implementation of the order of the preventive suspension.

Section 30. Failure to file an appeal from the order of preventive suspension within ten (10) working days from the receipt thereof shall render the order of preventive suspension final. Any adverse finding contained therein shall be deemed admitted by the subject MTI/AC.

Section 31. The Executive Director shall decide on the appeal on the order of preventive suspension within ten (10) working days from the receipt of the appeal.

Section 32. Any decision or resolution issued by the Executive Director shall become final and executory unless appealed to the MARINA Administrator by the MTI/AC within ten (10) calendar days from receipt of such decision.

Section 33. The appeal may be entertained only on any of the following grounds:

1. If there is *prima facie* evidence of abuse of discretion on the part of the STCW Office's Executive Director;
2. If the decision was secured through fraud or coercion, including graft and corruption;
3. If the decision was based on errors of law, or on misapplication of the policies, rules and regulations of the MARINA; and
4. If the decision was based on serious errors in the findings of facts, which, if not corrected, would result in grave and irreparable damage or injury to the appellant.

Section 34. The appeal, which shall be in six (6) legible copies, shall be filed at the STCW Office of the Executive Director, who shall, within 48 hours from receipt, transmit the entire records of the case to the Office of the Administrator.

Section 35. Period to resolve the appeal. The MARINA Administrator shall resolve the appeal within 30 calendar days from receipt of the appeal, with or without the comment from the Office of the Executive Director.

Section 36. The decision or resolution shall state clearly and distinctly the findings of facts, issues, and conclusions on which it is based, and the relief granted.

Section 37. Finality of Judgment. The decision or resolution of the Administrator shall be final and executory. No motion for consideration of the decision of the Administrator shall be entertained except when based on palpable or patent errors, provided that the motion is under oath and filed within ten days from receipt of the decision or resolution.

Section 38. Motion for Reconsideration of the decision of the Administrator. Only one (1) motion for reconsideration on the decision of the Administrator shall be allowed in matters affecting MTI/AC.

Section 39. Within ten (10) days from receipt of the Order or decision of the Administrator, the concerned party (MTI/AC) may file a Motion for Reconsideration to the MARINA Administrator.

Section 40. Period to resolve the motion for reconsideration. The Administrator shall resolve the Motion for Reconsideration within fifteen (15) calendar days from receipt thereof.

Article XV MISCELLANEOUS PROVISION

Section 41. The evaluation and/or inspection by the Surveillance, Accreditation or Monitoring (SAM) activities of the Administration may be conducted by electronic submission, remote, off-site or virtual when circumstances do not allow the conduct of the evaluation and/or inspection on-site, following the same procedure as far as practicable or through an Advisory, to continue the evaluation and/or inspection activity of MARINA.

For this purpose, and to cope with the new normal brought about by the COVID-19 pandemic or similar events in the future, all MTIs/AC with approved ATC and assessment of competence are hereby required to install, keep and maintain a video and audio monitoring system /technology to conduct ATC and assessment of competence which can be accessed by the Administration for purposes of conducting virtual or remote accreditation, monitoring, and surveillance activities.

The system shall include access to documents required by the Administration for the conduct of training and assessment of competence.

Section 42. All the requirements herein imposed, acts prohibited or penalized are verifiable through Surveillance, Accreditation, or Monitoring (SAM) activity/inspection conducted by the Administration.

ARTICLE XVI REPEALING CLAUSE

Section 43. Any provision of STCW Circular 2015-04 and other existing MARINA Circulars, Rules and Regulations, and other issuances on the monitoring of ATCs or assessment of competence of seafarers carried out by MTIs and ACs inconsistent herewith is hereby repealed and/or modified accordingly.

ARTICLE XVII SEPARABILITY CLAUSE

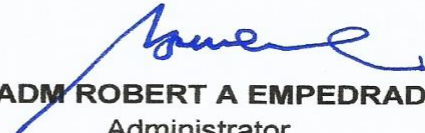
Section 44. Should any provision or part of this Circular be declared by any competent authority to be invalid or unconstitutional, the remaining provisions or parts hereof shall remain in full force and effect and shall continue to be valid and effective.

ARTICLE XVIII EFFECTIVITY

Section 45. This Circular shall take effect fifteen (15) days after its publication in a newspaper of general circulation in the Philippines and its submission to the Office of the National Administrative Register (ONAR).


Manila, Philippines on 11 February, 2021

BY AUTHORITY OF THE MARINA BOARD:


VADM ROBERT A EMPEDRAD AFP (Ret)
Administrator

SECRETARY'S CERTIFICATE

This is to certify that Memorandum Circular No. SC-2021- 02 has been approved by the Maritime Industry Authority (MARINA) Board during its 283rd – Regular Meeting on 11 February 2021.


ATTY. EUSEBIA CADLUM-BOCO
Corporate Board Secretary

Date of Publication: 18 March 2021
Business Mirror
Date of Submission to ONAR: _____