

Regulations of the People's Republic of China on the Prevention and Control of Marine Pollution from Ships

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CIRCULAR

Regulations of the People's Republic of China on the Prevention and Control of Marine Pollution from Ships

We refer Members to previous Circulars resting with Circular No 2015/013 of June 2015 on the Regulations of the People's Republic of China (PRC) on the Prevention and Control of Marine Pollution from Ships and the requirement that Owners/Operators of (a) any ship carrying polluting and hazardous cargoes in bulk or (b) any other ship above 10,000 GT enter into a pollution clean-up contract with a Ship Pollution Response Organisation (SPRO) before the ship enters a PRC port or engages in loading, discharge or ship-to-ship transfers outside of the port but within 20 nautical miles off shore.

Members are informed that the PRC Maritime Safety Agency (MSA) recently published new Measures of Administration on Agreement for Ship Pollution Response Regime, which will become effective on 1 March 2020. In conjunction with the new Measures, the MSA has also published a Directory of Hazardous Bulk Liquid Cargo Apt to Cause Pollution (the "Directory") for which oil booms need to be deployed during cargo operations or an Agreement with a SPRO needs to be concluded. The International Group (IG) has checked this effective date with the China MSA and it has been confirmed that this date will remain as 1 March 2020 and will not be postponed due to the COVID-19 outbreak.

As can be seen from the attached updated SPRO table, there is no material change to the SPRO requirements as a result, however Members will note that from 1 March 2020, no SPRO Agreements will be needed for any of the following:

1. Any ship under 10,000 GT either in ballast or carrying a liquid cargo in bulk not listed in the Directory; or
2. Any ship driven by clean fuels and carrying a liquid cargo not in bulk.

Oil booming is only required, inter alia, for ships loading, discharging, transferring over 300 MT of cargoes listed in the Directory.

Pursuant to the new Measures, the MSA no longer publishes its own recommended SPRO Agreement wording and the parties are free to negotiate all terms. A new Committee has been established under the auspices of the China Diving and Salvage Association (CDSA) which is due to take responsibility for training and assessing the capabilities of SPROs, establishing a central database for information as to SPRO capabilities and negotiating contract terms. However, this Committee is in its infancy such that for the time-being the position remains unchanged from that advised in the previous Circular (Circular No 2015/013 of June 2015) and Owners are advised to check with local agents, MSAs and the Club for the purposes of identifying SPROs in individual Chinese ports.

Members should also note the following:

- Where the port which the ship is entering, leaving or operating from does not have a SPRO with the required level of response capability, the Owner is not required to enter into an Agreement with a SPRO;
- Owners are required to report to the MSA any SPRO that does not fulfil its emergency standby obligations, and
- Owners are required to continue to report to the local MSA any cases of ship sourced pollution in the waters of the PRC.

The IG has reviewed the existing IG recommended SPRO Agreement wording in light of these developments and, at present, it is recommended that Owners continue to sign SPRO Agreements on the attached IG recommended wording. Members will be informed if there are any changes to the Agreement wording, including in light of any future negotiations with the CDSA Committee. It is recommended that Owners entering into new SPRO arrangements continue to ensure that the SPRO also provides an accompanying response tariff (which can be checked with the Club).

The IG will continue to monitor developments, particularly the work of the CDSA and report to Members. In the interim, any Member requested to agree to a variation of the attached recommended contract is advised to check with the Club to ensure that such variations do not cause the contract to fall outside the scope of the IG Guidelines.

If Members are in any doubt about the contract and SPRO tariff, then it is recommended that they contact the Club before contracting with any SPRO.

All Clubs in the International Group of P&I Clubs have issued similar Circulars.

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