

JAPAN P&I NEWS

No.726-15/04/21

To the Members

Dear Sirs,

China - Cancellation of SPROs Approval by MSA and Qianhe issue

1. Cancellation of SPROs Approval by MSA

In accordance with the Regulation of the People's Republic of China (PRC) on the Prevention and Control of Marine Pollution from Ships ("the Regulations"), shipowners/operators of certain ships are required to enter into a pollution clean-up contract with a Maritime Safety Agency (MSA) approved ship pollution response organizations (SPROs) before the ship enters a PRC port.

The MSA currently has evaluated qualification of SPROs, given an approval to SPRO who found to meet the certain requirements and issued a certificate (a Ship Pollution Response Unit Qualification Certificate) showing that it has been approved by the MSA for clean-up response.

The Ministry of Transport of PRC (MOT), however, issued a notice on cancellation of quality assessment and certification of SPROs. Once this notice becomes effective, the MSA will no longer approve SPROs nor issue a certificate to an approved SPRO. However, this does not mean that the requirements for SPROs contracts will no longer be needed. Shipowners/operators are still required to enter into a contract with a qualified SPRO, and it is now shipowners/operators' responsibility to evaluate and ensure that the SPRO they contract with meets the requirements. The International Group of P&I Clubs (IG) is in dialogue with the MSA through the IG's lawyer in Beijing about how shipowners/operators can assess the qualification of SPROs, and further developments will be provided as the information becomes available.

2. Qianhe issue

The Club is aware that certain investigations are taking place into Qianhe, one of the major SPROs in China, by the customs authority in China. The IG is closely monitoring the situation through the IG's lawyer.

As of today, Qianhe remains a qualified and approved SPRO and their status in this regard remains valid and has not been revoked. Members with annual contracts with Qianhe and no immediate schedule of a Chinese port call, therefore, need not do anything at present regarding those contracts since they still remain valid as of today, but if Members have a ship immediately going into a Chinese port where their contracted SPRO is Qianhe, they should look to make alternative arrangements with another SPRO on a single voyage basis until Qianhe's status is clarified.

Members looking to sing SPRO contracts in ports in China where Qianhe are operation should check whether other SPROs operate in those ports and take advice from the Club with regard to the status of such SPROs' tariffs and contract wordings.

Huatai Insurance Agency & Consultant Service Ltd, the correspondents in China, has issued the circular on this matter and we hereto attach it for the Members' reference.

Yours faithfully,

The Japan Ship Owners' Mutual Protection & Indemnity Association

Attachment: Circular Ref No.: PNI 1501 issued by Huatai Insurance Agency & Consultant Service Ltd



CHINA RE

华泰保险经纪有限公司

HUATAI INSURANCE AGENCY & CONSULTANT SERVICE LTD.

Circular Ref No.: PNI 1501

Date: 20 April 2015

Dear Sir or Madam,

Subject: Ministry of Transport of People's Republic of China ("MOT") Issues Formal Notice to Cancel Qualification Assessment and Certification of Ship Pollution Response Operators (SPROs) on 18 March 2015

Following the decision of State Council on cancellation and adjustment of some administrative approval items (State Council Ref No. (2015) 11), MOT issued a notice on cancelling and delegating five administrative approval items that involves MOT (MOT Ref No. 15), among which is cancellation of quality assessment and certification of SPROs.

Background

In accordance with "Regulations on Emergency Prevention & Response to Marine Pollution from Ships" (Rules No.4) issued by MOT which came into effect from 01 June 2011, China MSA issued a notice on 20 May 2011 -- "Implementation Details of Ship Pollution Response Contract Management Regulation", wherein China MSA sets out the basic guidelines on evaluation and approval procedures of the SPROs. Generally there are four levels of SPROs, among which level one SPROs shall be examined and approved by China MSA, and lower levels SPROs shall be evaluated and approved by local MSA. Approved SPROs would be issued a certificate to evidence their qualification. List of approved SPROs at each port were published on China MSA website.

Implications

In order to understand the subject notice and assist ship owners to comply with the latest requirement, we checked with the department in charge of this issue at China MSA, who advised that China MSA will no longer evaluate the SPROs or issues certificates for them. However, this doesn't mean the SPRO agreement requirement is abolished or suspended; furthermore, the requirements in terms of facility, manning or capability on the contracting SPROs remain unchanged.

To be specific, vessels carrying polluting and hazardous cargoes in bulk or any other vessel above 10,000gt are still required to enter into a pollution response agreement, but it is now owners' responsibility to evaluate and ensure that the SPRO they engage meets with MSA's relevant requirements and standard. MSA will continue to conduct random check to ensure compliance of this requirement, and in case they find that any vessel fails to have an effective agreement in place or the SPRO she engages fails to meet MSA requirement, there will be administrative consequences including but not limited to penalties. This means owners need to exercise extra caution in evaluating the SPROs they contract and ensuring that the contracted SPROs meet with MSA requirement throughout the contracting period.

We further checked with local MSA at various ports about this issue. It turns out that different local MSA are adopting different approach following this change. Some local MSA are still issuing certificates (level 2 and below) to SPROs, however some have stopped doing so. Most of the local MSA offices are considering this issue and allege they will issue further details or guidance on this in the future.

Related Issue

In addition to the above, there has been development with respect to a major SPRO contractor ----Qianhe Group, who also operates as sludge disposal contractor in China. In a very recent anti-smuggling operation conducted by General Administrations of Customs of PRC, Qianhe Group has been suspended operation at Tianjin, Dalian, Qingdao, Shanghai, Xiamen and Shenzhen, and is now under investigation of customs authorities. According to media report, Qianhe Group is accused of smuggling bonded bunker from ocean sailing vessels in the name of disposing sludge.

As a result of the above incident, owners who have entered into annual

SPRO agreements with Qianhe Group are highly recommended to rearrange alternative agreements immediately in order not to cause incompliance.

Recommendations

The subject notice issued by MOT undoubtedly calls for ship operators' extra care in choosing and evaluating the SPROs they engage. Ship operators need not only ensure the SPROs they contract are qualified at the time of signing the agreement, but also throughout the agreement validity period.

We will continue to assist our clients in choosing proper SPROs at each port that meets with MSA requirement and deliver timely and efficient service in respect of SPRO agreement arrangement. We are confident that our experienced marine service team covering the coast of China with in-depth local knowledge and expertise will prove a great value and reassurance to our clients' safe operation in terms of SPRO agreement in China.

We shall follow up on this subject and keep you duly updated of development.

Hope the above is of assistance. Any query/comment, please always feel free to contact us.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Shan Hong", with a long horizontal flourish extending to the right.

Shan Hong
Vice President