

JAPAN P&I NEWS

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中国—MSAによるSPRO認可廃止とQianhe社問題について

1. 認可手続きの廃止

中国の「船舶による海洋汚染防止及び管理規則」に基づき、同規則対象船舶は中国寄港前に海事局 (Maritime Safety Agency, MSA)が認可した油濁対応業者(Ship Pollution Response Organizations, SPROs)と油濁対応契約を締結しなければなりません。

これまでMSAは各SPROsが一定の要件を満たしているかどうかを確認し、要件を満たしていると確認したSPROsに対して認可を与え、認可されたSPROsに対して証明書(船舶油濁対応部門資格証明書)を発行してきました。

しかしながら、今般、中国運輸省(Ministry of Transport, MOT)はSPROsの認可及び証明書発給を廃止する方針である旨の通達を出しました。すなわち、同方針が施行されれば、今後MSAはSPROsの認可及び認可SPROsへの証明書発給を行わなくなります。但し、その場合でも上記のSPROsと油濁対応契約を締結しなければならない義務は引き続き存続し、今後はSPROsと契約する船主/オペレーター自らがSPROsが一定の要件を満たしているか否かを確認する義務を負わされることとなります。国際P&Iグループ(IG)では、船主/オペレーターがSPROsが一定の要件を満たしているか否かをいかに確認できるかについてMSAと協議を続けており、情報入手次第ご案内申し上げます。

2. Qianhe社の問題

大手SPROであるQianhe社が税関当局の捜査を受けている模様です。IGではIG起用の在北京の弁護士を通じて状況をモニタリングしており、同弁護士はMSAより情報収集を行っています。

現在のところ、Qianhe社は引き続き認可SPROとなっており、認可は取り消されておられません。従いまして、Qianhe社と年間契約を締結して近日中に中国に寄港予定がない場合には当面様子を見ることで足りると思われませんが、Qianhe社と契約して近日中に中国に寄港する予定がある場合には、同社の状況が判明するまで当面の間一航海ベースで他のSPROとの契約が必要になると思われま

す。Qianhe社のカバーエリアとなる中国諸港でのSPRO契約を行うに際しては、当該諸港をカバーする他のSPROsが存在しないかどうかを確認し、そのSPROの契約書の文言やタリフについて当組合までご相談下さい。

なお、本件に関して、Huatai Insurance Agency & Consultant Service Ltdが添付のサーキュラーを発行しておりますのでご参考に供します。

以上

日本船主責任相互保険組合

添付：Huatai Insurance Agency & Consultant Service Ltdのサーキュラー(Circular Ref No.: PNI 1501)



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