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NEW ZEALAND – BIOFOULING – CRAFT RISK MANAGEMENT STANDARD

This is the third circular which we have prepared for the International Group on the introduction of regulations relating to hull biofouling in New Zealand. Our previous circulars of April 2017 and March 2018 refer.

On 15 May 2018 the Craft Risk Management Standard (CRMS) came into force. It will be monitored and implemented by the Ministry for Primary Industries (MPI). Over the last four years MPI has operated a voluntary “clean hull” protocol which has seen some ships being found to have unclean hulls on inspection and in some cases ordered out of the jurisdiction for cleaning. As of 15 May 2018 the CRMS, which sets out the requirements for management of biofouling risks associated with vessels entering New Zealand territorial waters, became mandatory. Ships which do not comply with the CRMS risk being expelled from the jurisdiction.

MPI gave a briefing to ships’ agents and other interested parties in Auckland last week. We attended that presentation which described the risk to the New Zealand marine environment posed by hull biofouling, set out the intent of the CRMS and discussed

methods which vessel operators will be required to use, and which are set out in the Standard, to achieve a “clean hull”.

The point was made very strongly at the briefing that the recently elected Government here in New Zealand, which has the Green Party of New Zealand as one of its coalition components, intends to set a high bar on biosecurity risks across the board. The importance of vessel operators taking ownership of this problem and having put in place measures to ensure a clean hull prior to the ship's arrival in New Zealand was stressed.

As has been set out in previous circulars, the MPI website at <https://www.mpi.govt.nz> has full and comprehensive details of the CRMS. At the briefing last week MPI emphasised that operators must use preventative measures to ensure a clean hull before they arrive in New Zealand through either

1. Cleaning the vessel's hull less than 30 days before arrival.
2. Having evidence of continual maintenance of the hull using best practice or
3. Booking an appointment to haul out a vessel at a MPI-approved facility within 24 hours of arrival.

As yet there is no facility which has MPI approval and, in any event, there is no facility here in New Zealand which can cope with deep sea trading vessels.

To demonstrate compliance ships will need to carry on board and be able to present to an MPI inspector on arrival

- An antifouling certificate and a biofouling management plan. The antifouling certificate will need to show details of the antifoul coating, the application date, the type of anti-fouling and confirmation of application of the anti-fouling to niche areas. These niche areas are of particular concern to MPI, being more difficult to clean than flat hull surfaces.
- Reports from the most recent hull and niche area cleaning.
- Records of contingency planning on clean hulls.
- A biofouling management plan.
- A biofouling record book.

So far as record keeping is concerned MPI will expect to see reports from recent hull and niche area inspections including date stamped photographs and/or video.

When it comes to what is best practice in this area MPI refers to the IMO's biofouling guidelines.

In the event that a ship is not compliant with CRMS MPI will consider how likely it is that

- the organisms found on the hull will reproduce.
- the organisms will be displaced from the vessel.
- the organisms or their offspring will survive and establish.

In the event of serious non-compliance, it is likely that the ship will be ordered to leave the jurisdiction. The jurisdiction of MPI extends to the 12nm limit but it was made clear at the briefing that any cleaning just outside 12nm, with what MPI sees as the attendant risk of the unwanted organisms making their way back to New Zealand territorial waters,

would be viewed in a poor light by MPI. Once the vessel has cleaned then it is entitled to present itself for reinspection but MPI would expect to receive complete detail of the cleaning along with appropriate photographic or video evidence of the condition of the hull.

We understand that New Zealand is the first jurisdiction in which such stringent and compulsory biofouling measures have been introduced. MPI accepts that there will be cases which fall into a grey area as to whether a hull is dirty or clean and have said that they will work with the operator in that case. It is however important that owners/operators should familiarise themselves with the CRMS and the potentially serious operational and financial impact which failure to comply can have. It is important that owners prepare both operationally and from a documentary perspective so that they present not only a clean hull when their ship arrives in New Zealand but also comprehensive documentary evidence as to steps taken to comply with the CRMS.

We have good contacts in MPI in this area. They have indicated that they are more than happy to discuss the detail of the CRMS further both in a general sense and with respect to any particular ship which may arrive here. MPI of course has its methods of intelligence gathering which will indicate if a particular ship may constitute a high risk of being unclean. Owners/operators of ships which may objectively pose a risk to the New Zealand marine environment can be assured that our authorities will be vigilant and are likely to know whether a particular ship has, for example, being laid up for an extended period in tropical waters.

We are of course happy to assist further and would be grateful if Clubs could place this circular on their websites.

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