



Republic of the Philippines
Department of Transportation
MARITIME INDUSTRY AUTHORITY



Memorandum Circular No. SR-2020-04
Series of 2020

TO : ALL SHIPOWNERS, SHIP MANAGERS, MASTERS AND OFFICERS OF THE PHILIPPINE REGISTERED SHIPS, SHIPBUILDING/SHIP REPAIR, BOATBUILDING/BOAT REPAIR YARDS, SHIPBREAKING ENTITIES, RECOGNIZED ORGANIZATIONS AND OTHER CONCERNED ENTITIES.

SUBJECT: RULES AND REGULATIONS ON THE APPLICATION OF ANTI-FOULING PAINTS AND SYSTEMS IN SHIPS IN COMPLIANCE TO THE INTERNATIONAL CONVENTION ON THE CONTROL OF HARMFUL ANTI-FOULING SYSTEMS IN SHIPS (AFS CONVENTION)

Pursuant to Presidential Decree No. 474, Presidential Decree No. 1059 and its Implementing Rules and Regulations, Executive Order Nos. 125/125-A, and Republic Act 9295 and its Implementing Rules and Regulations, in compliance with the International Convention on the Control of Harmful Anti-Fouling Systems in Ships, as amended (AFS Convention), the following rules and regulations are hereby adopted and prescribed:

I. OBJECTIVES

1. Prevent the utilization of harmful anti-fouling paints and other anti-fouling systems that contain harmful substances in all Philippine-Registered Ships compliant with the AFS Convention;
2. Promote and establish the effective mechanism to control and prevent the potential future use of other harmful substances in anti-fouling systems on ships in order to protect the marine environment and human health from its adverse effects; and,
3. Promote the effective control of all sources of marine pollution and to take all practicable steps to prevent pollution of the sea.

II. COVERAGE

This Circular shall apply to:

1. All MARINA-registered Shipbuilding/ Ship Repair/ Boatbuilding/ Boat Repair/ Shipbreaking entities;

2. All Philippine-registered domestic and/or international going ships, or ships operating under the Philippines flag;
3. All foreign registered ships entering the Philippine maritime jurisdiction; and,
4. All ships entering a port, shipyard, or offshore terminal in the Philippines, but do not fall within items nos. 2 & 3.

This Circular shall not apply to any warships, naval auxiliary, or other ships owned or operated by the Philippines and used, for the time being, only on government non-commercial service. Such ships shall, however, endeavor to ensure compliance with these regulations insofar as is reasonable and practical.

III. DEFINITION OF TERMS

1. **"Administration"** refers to the Maritime Industry Authority (MARINA).
2. **"AFS Convention"** refers to the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001.
3. **"Anti-Fouling System (AFS) Certificate"** refers to the Certificate issued by the Administration to Ships of 24 meters in length and above and/or 400 gross tonnage and above engaged in international/ domestic voyages (excluding fixed or floating platforms, floating storage units (FSUs) and floating production storage and offloading (FPSOs) that confirms that the anti-fouling system complies with the requirements of the AFS Convention.
4. **"AFS Declaration"** refers to a document stating that the AFS is compliant with the Regulations and must be signed by the owner or authorized agent. Ships of 24 meters or more in length but less than 400 gross tonnage (excluding fixed or floating platforms, FSUs and FPSOs). The Declaration will have to be accompanied by appropriate documentation such as a paint receipt or contractor invoice.
5. **"AFS Statement of Compliance"** refers to a document recording compliance with Annex 1 to the AFS-Convention, issued by a recognized organization on behalf of the Administration.
6. **"Anti-fouling"** refers to the control or prevention of the growth of unwanted organisms on underwater surfaces or any parts of a ship.
7. **"Anti-Fouling System (AFS)"** refers to a coating, paint, surface treatment, surface, or device that is used on a ship to control or prevent attachment of unwanted organisms.

8. **"Certification of Marine Paint"** refers to a certificate issued by a MARINA-registered Shipbuilding/ Ship Repair/ Boatbuilding/ Boat Repair entity/ies attesting that the used Paint does not contain any harmful organotin compound in accordance to Annex 1 of the Convention.
9. **"Recognized Organization"** refers to an organization that has been assessed by the Administration and has complied with the RO Code and has entered into a Memorandum of Agreement (MOA) with the Administration.
10. **"Records of Anti-Fouling System (AFS)"** refers to documents that contain record of applied/used AFS to the ship. This record shall be permanently attached to the AFS Certificate.
11. **"Ship" or "Vessel"** refers to any craft or artificial contrivance capable of floating on water, designed to be used or capable of being used as a means of water transportation utilizing its own motive power or that of others.

IV. GENERAL PROVISION

1. All ships covered by this Circular shall take effective measures to strictly comply with the requirements as specified in Annex 1, Controls on Anti-Fouling Systems of the International Convention on the Control of Harmful Anti-Fouling Systems on Ships (AFS Convention) and MARINA Advisory 2015-20, that ships shall not apply or re-apply Organotin Compounds which act as biocides in anti-fouling system.
2. The application, re-application, installation, or use of **HARMFUL** anti-fouling systems on ships shall be **PROHIBITED**.
3. The application, re-application, installation or use of harmful anti-fouling systems on ships **while in any port, shipyard, or offshore terminal** within the Philippines shall be **RESTRICTED**.
4. Upon Completion of dry-dock of the ships, the MARINA-Registered Shipbuilding/ Ship Repair/ Boatbuilding/ Boat Repair Entities shall issue and submit to the Administration **Certification of Marine Paint** attesting that the paints used on the ships are compliant with **Section IV.1**.
5. All ships of 24 meters in length and above and/or 400GT and above shall be issued with **Anti-Fouling System (AFS) Certificate and Records of Anti-Fouling System** and shall at all times carry onboard a copy of the said certificate.
6. All ships not issued with AFS Certificate shall at all times carry onboard an **AFS Declaration** accompanied with the **Certification of Marine Paints** from the Shipyard/Boatyard where it was last dry-docked.

7. All ships covered by this Circular using non-compliant anti-fouling system controlled under Annex 1 of the AFS Convention shall undergo repair or replacement with a compliant AFS.
8. All foreign registered ships entering the Philippines maritime jurisdiction; as well as ships that enter a port, shipyard, or offshore terminal in the Philippines shall at all times carry onboard a copy of the International AFS Certificate.
9. Ships covered by this Circular bearing an anti-fouling system which is controlled through an amendment to Annex 1 following entry into the force of the AFS Convention may retain that system until the next scheduled renewal of that system, but in no event for a period exceeding 6 months following application.
10. All MARINA Registered-Shipyards/Boatyards/Shipbreaking yards are required to ensure that any waste from the application or removal of an anti-fouling system is collected, handled, treated and disposed of in a safe and environmentally sound manner to protect human health and the environment.

V. SURVEY AND CERTIFICATION

1. The Administration or its Recognized Organization (RO) covered under MC 2018-01 shall carry out AFS survey during any of the following conditions:
 - 1.1. Newbuilding of ships;
 - 1.2. Dry-docking survey of the ship whenever an anti-fouling system is changed or replaced;
 - 1.3. Major conversion, alteration or modification of ships affecting anti-fouling system; and/or,
 - 1.4. Repairs affecting approximately 25% of more of the anti-fouling system.
2. The Administration or its RO shall issue an **Anti-Fouling System (AFS) Certificate** after successful completion of a survey in accordance with Section IV.1.
3. Record of Anti-fouling Systems shall indicate the following Details of Anti-Fouling: (attached as Annex 1)
 - (a) Type of AFS used;
 - (b) Date of Application of AFS;

- (c) Name of Company/ies and facility/ies /location/s where the AFS was applied;
 - (d) Name/s of AFS manufacturer/s;
 - (e) Name/s and color/s of AFS;
 - (f) Active ingredient/s and their Chemical Abstracts Service Registry Number or the CAS number;
 - (g) Type/s of sealer coat, if applicable;
 - (h) Name/s and color/s of sealer coat applied, if applicable; and
 - (i) Date of application of sealer coat.
4. The Administration or its RO shall strictly re-issue/update the Records of AFS of ships whenever the AFS system is changed or replaced.
5. Compliance Monitoring for Domestic Ships

The Administration shall undertake periodic, random inspection of Philippine- Registered ships calling any Philippines ports to ensure compliance with the Circular.

Philippine-Registered ships trading overseas shall be subject to survey/ inspection under the oversight function of the Administration.

VI. BRIEF SAMPLING OF AFS ON SHIPS

Unless there are clear grounds of violation of this circular, a brief sampling of the ship's anti-fouling system shall be made by the Authority. Sampling shall be in accordance with resolution MEPC. 104(49) or the "*Guidelines for Brief Sampling of Anti-fouling Systems on Ships*" provided that it does not affect the integrity, structure, or operation of the anti-fouling system.

However, the time required to process the results of such sampling shall not be used as a basis for preventing the movement and departure of the ship.

VII. DOCUMENTARY REQUIREMENTS

1. Letter of Application;
2. Drydocking Certificate;
3. Proof of purchase of Marine Paint;
4. Certification of Marine Paint from the shipyard/ boatyard;
5. Technical Data Sheet of manufacturer and Material Safety Data Sheet (MSDS) of the used paint;
6. Original AFS Certificate (for replacement/ reapplication of AFS); and
7. Record of AFS (for replacement/ reapplication of AFS).

VIII. VALIDITY OF AFS CERTIFICATE

The AFS Certificate shall remain valid provided that the Record of AFS is updated whenever the AFS system is changed or replaced.

IX. FEES AND CHARGES

Activity/Application	Fees & Charges
A. If survey/inspection conducted within the MARINA Central Office (MCO)/Maritime Regional Office (MRO) work station/location	
- 3.00 GT and Below	P 200.00
- 3.01 GT to 14.99 GT	P300.00+P1.00/GT in excess of 3GT
- 15.00 GT to 34.99 GT	P500.00+P1.00/GT in excess of 15GT
- 35.00 GT to 99.99GT	P600.00+P1.00/GT in excess of 35GT
- 100.00 GT to 249.99 GT	P1,200.00+P1.00/GT in excess of 100GT
- 250.00 GT to 499.99 GT	P1,600.00+P1.00/GT in excess of 250GT
- 500.00 GT to 999.99 GT	P2,300.00+P1.00/GT in excess of 500GT
- 1000.00 GT to 1499.99 GT	P3,100.00+P1.00/GT in excess of 1000 GT
- 1500.00 GT to 1999.99 GT	P3,900.00+P1.00/GT in excess of 1500 GT
- 2000.00 GT to 2999.99 GT	P4,700.00+P1.00/GT in excess of 2000 GT
- 3000.00 GT to 4999.99 GT	P6,200.00+P1.00/GT in excess of 3000 GT
- 5000.00 GT and Above	P8,600.00+P1.00/GT in excess of 5000 GT
B. Additional Charges for Survey/Inspection conducted outside work station of the surveyor/ inspector	P 1,600 / day + amount of air fare ticket (economy class) per surveyor/inspector.
C. AFS Certificate/ Record of AFS	rates for certificates shall be added to the corresponding inspection fee
- Security Paper/ Certificate	P400.00

Note: Whereas, Fees for items A. and B. under this Section may be waived whenever the inspection for the AFS Certificate will be done together with other inspection that already collects/involves inspection fee.

X. FINES AND PENALTIES

The following fines and penalties shall be imposed for any violation of the provisions herein, upon notice and hearing:

1. Use of harmful anti-fouling systems by a ship;

Size	1 st Violation (PHP)	2 nd Violation (PHP)	3 rd and Succeeding Violation
400 GT and Above	100,000.00	200,000.00	300,000.00 plus suspension and/or cancellation of Authority to Operate (no sail condition until compliance)

Below 400 GT but 24 m in length & above	50,000.00	100,000.00	150,000.00 plus suspension and/or cancellation of Authority to Operate (no sail condition until compliance)
Below 400 GT but below 24 m in length	25,000.00	50,000.00	100,000.00 plus suspension and/or cancellation of Authority to Operate (no sail condition until compliance)

2. Improper handling and disposal of wastes by a ship;

Size	1 st Violation (PHP)	2 nd Violation (PHP)	3 rd and Succeeding Violation
400 GT and Above	100,000.00	200,000.00	300,000.00 plus suspension and/or cancellation of Authority to Operate (no sail condition until compliance)
Below 400 GT but 24 m in length & above	50,000.00	100,000.00	150,000.00 plus suspension and/or cancellation of Authority to Operate (no sail condition until compliance)
Below 400 GT but below 24 m in length	25,000.00	50,000.00	100,000.00 plus suspension and/or cancellation of Authority to Operate (no sail condition until compliance)

3. Operating without AFS Certificate or AFS Declaration with Certification of Marine Paint;

Size	1 st Violation (PHP)	2 nd Violation (PHP)	3 rd and Succeeding Violation
Without AFS Certificate	50,000.00	100,000.00	Penalty of previous violation plus 50,000.00
Without AFS Declaration	25,000.00	50,000.00	Penalty of previous violation plus 25,000.00

4. Use of harmful anti-fouling systems by SBSR Entity;

Category	1 st Violation (PHP)	2 nd Violation (PHP)	3 rd and Final Violation
SBSR Class A	200,000.00	400,000.00	Closure after due process plus 600,000.00
SBSR Class B	150,000.00	300,000.00	Closure after due process plus 450,000.00
SBSR Class C	100,000.00	200,000.00	Closure after due process plus 300,000.00
BB (ALL CLASSES)	50,000.00	100,000.00	Closure after due process plus 150,000.00

5. Improper handling and disposal of wastes by SBSR Entity;

Category	1 st Violation (PHP)	2 nd Violation (PHP)	3 rd and Final Violation
SBSR Class A	200,000.00	400,000.00	Closure after due process plus 600,000.00
SBSR Class B	150,000.00	300,000.00	Closure after due process plus 450,000.00
SBSR Class C	100,000.00	200,000.00	Closure after due process plus 300,000.00
SBKR (ALL CLASSES)	100,000.00	200,000.00	Closure after due process plus 300,000.00
BB (ALL CLASSES)	50,000.00	100,000.00	Closure after due process plus 150,000.00

XI. TRANSITORY PROVISION

1. New ships for construction under this Circular shall comply upon effectivity of this Circular.
2. Existing ships covered by this Circular shall comply during the next scheduled dry-docking period.
3. All MARINA-Registered Shipyards/Ship Repair/ Boatbuilding/ Boat Repair/ Shipbreaking entities shall immediately comply upon effectivity of this Circular.

XII. SEPARABILITY CLAUSE

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

XIII. EFFECTIVITY

This Circular shall take effect fifteen (15) days after its publication in a newspaper of general circulation or in the Official Gazette.

Done in the City of Manila, Philippines, this day of JAN 07 2021.

BY THE AUTHORITY OF THE BOARD:


VADM ROBERT A EMPEDRAD AFP (Ret)
Administrator

SECRETARY'S CERTIFICATE

This is to certify that Memorandum Circular No. SR-2020-04 has been approved by the MARINA Board during its 280th Regular Board Meeting held on 27 October 2020.


ATTY. EUSEBIA CADLUM-BOCO
Board Secretary

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Business Mirror

Date of Submission to ONAR: