

Ships' anti-fouling systems (bottom paints)

Anti-fouling systems are coatings, paints, surface treatments or devices used on ships to control or prevent attachment of unwanted organisms, such as algae or acorn barnacles.

The prohibition against the presence of TBT (tributyltin) paint on ships' hulls applies irrespective of the size of the ship (of pleasure craft) and the type of the ship. The "use" refers to the application, change or replacement of anti-fouling systems. These provisions also apply to ships flying the flag of other EU Member States as well as to ships calling at EU ports.

From 1 January 2008, a complete prohibition against organotin compounds functioning as biocides applies in ships' anti-fouling systems. This means that such anti-fouling systems must be removed in all ships registered in the EU or calling at EU ports irrespective of their size or area of operation. An alternative may be for them to be covered by a sealing coating preventing the organotin compounds from being washed into the marine environment.

At present, only organotin compounds functioning as biocides are completely prohibited in anti-fouling systems. Anti-fouling systems also contain other substances functioning as biocides, but at present there is no general prohibition against these in the EU. Other substances may be prohibited in the future as a consequence of the Biocide Directive (Directive 98/8/EC, <http://ec.europa.eu/environment/biocides/index.htm>).

Inspection certification and declarations

The regulations on anti-fouling systems do not distinguish between pleasure craft and ships used for commercial purposes as regards inspections, certification and declarations on anti-fouling systems. The provisions are related to the ship's length or length and gross tonnage. As regards the contents of the paints and the liberation of anti-fouling biocides, there are however special regulations for yachtsmen in Denmark (Order no. 1215 of 10 December 2008 on Anti-Fouling Systems, <https://www.retsinformation.dk/Forms/R0710.aspx?id=122164>).

Ships with a gross tonnage of or above 400

From 1 July 2003, all ships with a gross tonnage of or above 400 must be surveyed and hold an International Anti-Fouling Certificate (AFS Certificate). Surveys are conducted and certificates are issued by the Danish Maritime Authority on non-classed surveys, while on classed ships these tasks are carried out by recognised organisations with which the Danish Maritime Authority has concluded formal agreements. A request for a survey must contain the information about the ship stipulated in MEPC.102(48). The validity of the AFS Certificates expires if the anti-fouling system is changed or replaced by another system and when the ship is transferred to another flag or another State.

Ships with a length of or above 24 metres, but a gross tonnage below 400

From 1 July 2003, ships with a length of or above 24 metres, but a gross tonnage below 400 must hold an AFS Certificate for ships with a length of or above 24 metres, but a gross tonnage below 400 as evidence that the ship complies with the requirements for the use of organotin compounds functioning as biocides. The declaration is to be filled in by the shipowner. The declaration must be accompanied by relevant documentation, such as a confirmation of paint or coating received or the supplier's invoice.

Ships of less than 24 metres

Ships of less than 24 metres, i.e. primarily pleasure craft and fishing vessels, are not required to be inspected and certified. Such ships must, however, use coatings or anti-fouling systems approved in accordance with the legislation in force (EU Council Directive 76/769/EEC, which will be replaced by the Biocide Directive, Directive 98/8/EC).

Exemptions

Warships, naval auxiliaries and other ships owned or operated by a State are exempted from the regulations on anti-fouling systems in force. Fixed or floating platforms, floating storage units (FSUs) and floating production, storage and offloading units (FPSOs) built before 1 July 2003 that have not been dry-docked since this date are also exempted.

Transfer of ships to the Danish flag

Ships transferred to Denmark from a Ship Registry in a non-EU Member State can retain prohibited anti-fouling systems (i.e. systems containing organotin compounds) that have been applied before 1 July 2003 until the first dry-docking where an approved anti-fouling system must be used. If the ship uses a prohibited anti-fouling system after 1 July 2003, it must be removed or sealed before the ship can fly the Danish flag.