

## Proinde Circular 06-11-2017: Requirements for vessel lay-up in Brazil

### 1. Introduction

Until recently, there were no specific provisions in the Maritime Authority Rules (*Normas da Autoridade Marítima* – known as NORMAM) issued by the Directorate of Ports and Coasts (*Diretoria de Portos e Costas* – DPC) to regulate vessel's lay-up in Brazil.

In the wake of the economic crisis affecting the naval and offshore industries, vessel operators found themselves without contracts and no economic alternatives to save costs on the running and maintenance of vessels while awaiting improvements in market conditions.

To bring an alternative to this situation, on 30 October 2017, the DPC issued Ordinances 306 and 307/2017 that amend the 'Rules for the Transit and Permanence of Vessels in Brazilian Jurisdictional Waters - NORMAM-08/DPC', and the 'Rules for the Operation of Foreign Vessels in Brazilian Jurisdictional Waters – NORMAM-04/DPC', respectively.

Among other changes to the Rules, the new amendments authorise vessels laying-up in Brazilian ports and terminals and provide for the requirements and conditions for the concession of the Laid-Up Vessel Certificate (*Certificado de Embarcação Fora de Operação*) to vessels entering lay-up.

### 2. Conditions

Brazilian vessels and offshore support vessels, as well as foreign-flagged offshore support vessels only, can now be laid-up in Brazilian ports and terminals.

For foreign offshore support vessels, the DPC will analyse the situation of the chartering company in Brazil and the condition of the vessel before authorising the lay-up. It will also require a P&I Club letter of undertaking, or a first-class bank guarantee, to cover wreck removal, environmental damage and civil liabilities for as long as the vessel remains laid-up in Brazilian waters.

All vessels in hot or cold lay-up must remain moored alongside an authorised wharf or terminal during the entire lay-up period, and in no case lay-up offshore or at anchorage will be permitted.

Inspectors from the local Port Captainty will conduct periodical inspections, for the account of vessel's interests, every six months until the vessel is reactivated to return to regular operation.

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### 3. Application

The application or lay-up can be made by the vessel's owners, charterers or their legal representatives and must include information pertaining to schedule and manning levels, accompanied by the following documents:

#### All vessels

- Safe manning certificate
- Crew list
- Contract between the vessel's interests and the port facility or terminal where the vessel will remain laid-up (including provisions for rights and obligations of the parties, maintenance of vessel's equipment and systems and emergency response plans)
- Evidence of P&I covers for wreck removal, environmental damage and civil liabilities
- Other documents the maritime authority deems necessary

#### Foreign-flagged offshore support vessels

- Copy of the CNPJ (National Registry of Corporate Taxpayers) of the applicants
- Copy of the bylaws or articles of incorporation of the applicants
- Charter party between owners and Brazilian charterers
- Vessel's certificate of registry
- Vessel's class certificates
- Approval from vessel's Flag Administration
- Class report for lay-up
- Letter of undertaking issued by the P&I club or first-class bank guarantee

### 4. Conclusion

The granting of the Laid-Up Certificate by the maritime authority does not exempt owners and charterers from having to comply with statutes and regulations of other stakeholders such as customs, immigration, labour and port health authorities.

The Ordinances and Maritime Authority Rules published by the DPC (some of them with an English version not necessarily updated) can be downloaded at <http://www.dpc.mar.mil.br/>.

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