



# **Responsible Fishing Vessel Standard**

## **Policy on Zero Tolerance Offenses and Remediation Requirements**

**Issue 1.0**

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## 1.0 Introduction

Following the development and pilot testing of the Responsible Fishing Vessel Standard (RFVS), it was determined that an additional policy was required outlining how to respond to instances deemed a “Zero Tolerance Offense.” These are defined as serious and/or illegal issues related to workers found on fishing or support vessels.

The intent is to have escalation mechanisms in place for offenses that exceed a standard non-conformance to the RFVS in order to provide guidance to certification bodies and vessels regarding Zero Tolerance offenses and remediation thereof. Examples of such issues include, but are not limited to forced labor, illegal child labor, discrimination, violence, and harassment.

To develop this policy, an expert Technical Committee (TC) was convened to review research and recommendations by Global Seafood Alliance (GSA) and provide insight on how the policy should be developed. The TC convened three times related to this issue: July 7<sup>th</sup>, September 15<sup>th</sup>, and finally December 2<sup>nd</sup>, 2021. The following policy is the result of these discussions, and includes guidance and requirements for GSA, applicants, certified vessels, certification bodies (CB), and approved auditors.

## 2.0 Zero Tolerance Offenses

Central to the Zero Tolerance Policy is a clear definition of offenses that fall under this scope. Broadly, this policy applies to offenses that carry an immediate and serious risk to the safety and/or legal rights of crew members or passengers on vessels. To help demonstrate this distinction, Table 1 outlines both the offenses that fall under this Zero Tolerance Policy, as well as the type of offenses that would incur a Critical Non-Conformance during a routine audit but would not require this heightened approach. Note, a protocol exists for the management and resolution of identified Critical Non-Conformances in the BSP CB Requirements document; this policy helps outline what additional requirements are in place for Zero Tolerance issues identified on vessels. For a full list of Critical NC offenses not covered by this policy please refer to the RFVS compliance guide.

**Table 1: Detailed Definitions of Zero Tolerance Offense Non-Conformances to the Responsible Fishing Vessel Standard**

Severity Levels	Labour and Worker Issues Grouped by Levels of Severity <i>Note: All issues must be identified and documented during a scheduled audit to be considered a Zero-Tolerance Offense. Critical NCs documented during an audit or subsequent investigation that are ultimately attributed to offenses described below shall be considered a Zero-Tolerance Offense.</i>
Zero Tolerance Level	Actual use of forced/non-voluntary prison labour including the use of debt bondage and human trafficking. <sup>1</sup>
	Actual use of illegal child labour. <sup>2</sup>
	Actual observed/identified Violence and /or intimidation, whether physical, sexual, or mental. <sup>3</sup>
	Actual observed negligent endangerment of vessel safety. <sup>4</sup>

<sup>1</sup>Forced Labor is defined by ILO Convention 29 as all work or service exacted from any person under the menace of any penalty and for which the said person has not offered himself/herself voluntarily.

<sup>2</sup>Illegal child labour is the use of person under the legal minimum work age for the country where the operation is legally registered. The term “child labour” is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It refers to work that: is mentally, physically, socially, or morally dangerous and harmful to children.

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<sup>3</sup>Intimidation or harassment is a **personalized form of anti-social violent behaviour**, specifically aimed at particular individuals. People experience repeated incidents and problems of intimidation and harassment day after day. In some cases, the victim and the perpetrator live close to each other, often as crew members.

<sup>4</sup>Negligent endangerment of vessel safety can be defined as:

- (a) A person operating a vessel in a grossly negligent manner that endangers the life, limb, or property of a person. or
- (b) An individual who is under the influence of alcohol, or a dangerous drug in violation of the Flag State's law when operating a vessel. or
- (c) The vessel has been detained and determined to be substandard by the Flag State, and the regulator has published notice of that detention and determination in an electronic form, including the name of the owner of the vessel; or
- (d) The operator of the vessel has on more than one occasion had a vessel detained and determined to be substandard by their Flag State regulator for violation of an international safety convention to which the Flag state is a party, and the regulator has published notice of that detention and determination in an electronic form, including the name of the owner of the vessel.

## 3.0 Remediation Requirements

### 3.1 Remediation Policy

In addition to the Vessel- and Group-Level requirements for Zero Tolerance Offenses described above, all RFVS applicants and certificate holders shall have a Remediation Policy as part of their overall Human Rights Policy required in Core Principle 1, Section 1. This Remediation Policy shall detail how the applicant or certificate holder will support any crew members or passengers that are identified as victims from a Zero Tolerance offense. Remediation requirements shall differ based on the offense identified, but examples include financial compensation, housing and repatriation, educational support, or rehabilitation support.

It is a requirement of the applicant or certificate holder to prepare a Remediation Policy that is specific to their vessel or Group and can provide proper support for any offense encountered. It is not required for this Policy to have a specific protocol in place for each offense; rather, it is possible for an Applicant or certificate holder to provide overall guidance that allows for the appropriate level of remediation based on the situation.

While a stepwise process is not required, the key requirements of any Remediation Policy adopted shall be as follows:

- The Applicant or Certificate Holder must bear all remediation costs.
- Each individual identified by the auditor or CB as directly impacted by the Zero Tolerance offense must have a specific remediation plan prepared and enacted by the applicant or certificate holder, hereby known as the Remediation Plan.
- Each Remediation Plan must address the specific offense and how impacted the individual in question, as well as the specific, time-bound steps that will be taken to address the various types of harm suffered by the employee. These steps shall be listed under two requisite categories: Rehabilitation activities and Compensation/Restitution.
- Each Remediation Plan shall also include requirements for ongoing monitoring and follow-up by the applicant or certificate holder to ensure all remediation activities were successfully enacted and that the victim in question received everything guaranteed in the Plan.
- Any remediation activity must also include a detailed summary by the applicant or certificate holder of the reason(s) the Zero Tolerance offense occurred, how any victims have been compensated by these actions, and how future occurrences of these offences will be eliminated.

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## 3.2 Child Victims' Policy

In cases where illegal child labour is identified, these child victims shall have a separate remediation action plan in order to ensure appropriate care is taken. In these circumstances, the applicant or certificate holder **shall not** directly engage with the child victim in any way. Rather, the applicant or certificate holder shall include in their Remediation Policy that their Flag stage regulatory authority or an affiliated NGO shall lead any Remediation Plan for child victims, and that in addition to the requirements of Section 3.1, the following additional steps<sup>1</sup> shall also be incorporated into the Remediation Steps:

- Consultation with the child and his/her family to understand their wishes and needs
- Agreement on a process and next steps for the child/children involved with the supplier that includes the child and their family
- Compensation for loss of income and commitment for remediation, including a stipend, housing, food while an investigation gets underway
- Offer the child's job to a qualified adult member of the family
- Enable the child to attend school and ensure payment of fees by the applicant
- Conduct a detailed investigation with appropriate child labour and protection expertise
- Establish a monitoring mechanism and conduct regular reviews of progress

## 4.0 Required Actions

Upon identification of any Zero Tolerance offense during the course of an RFVS audit, it is the responsibility of the auditor to escalate the issue to their affiliated CB. The CB shall review the evidence submitted by their auditor and if they feel it justifies that the program's Zero Tolerance policy has been breached the CB shall inform GSA with immediate effect. Any breaches of the Zero Tolerance policy shall require the immediate removal of all RFVS and BSP logo branding from any implicated vessels, products, or marketing materials.

Firstly, the auditor shall if they feel that it is safe to do so, conclude the audit in a discrete and impartial manner, and shall not directly discuss the Zero Tolerance offence with any individuals on the vessel. Next, the auditor shall be responsible for informing their CB of the Zero Tolerance offense, providing clear detail on how this violates the policy. This should be done as soon as practically possible. However, the primary concern at all times should be the health and safety of the auditor on site. If an auditor feels that their safety would be put at risk by alerting their CB, the auditor is expected to leave the audit site and contact their CB as soon as they are no longer at risk of interacting with any vessel operators or crew members.

Additionally, if the auditor believes the immediate health and safety of any other individuals on the vessel is at risk, they shall discuss with their CB, who may seek further consultation with GSA, to seek advice on the proper steps to inform the affected crew member on what they can do in the short term, if this possible and safe to do so.

Following this notification, additional steps are required to address the Zero Tolerance offense. Table 2 below explains the expected follow-up actions to a Zero Tolerance offence and the responsibility of all parties involved.

<sup>1</sup> Based on best practice guidance from the Ethical Trade Initiative:

[https://www.ethicaltrade.org/sites/default/files/shared\\_resources/eti\\_base\\_code\\_guidance\\_-\\_child\\_labour\\_web\\_0.pdf](https://www.ethicaltrade.org/sites/default/files/shared_resources/eti_base_code_guidance_-_child_labour_web_0.pdf)

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**Table 2: Required Actions after the Identification of a Zero Tolerance Offense, as well as the Expected Responsibility of all Related Parties**

Steps	Required Action	Applicant Responsibility	Auditor Responsibility	CB Responsibility	GSA Responsibility
1	<b>Immediate reporting to the vessel's Flag State authorities after an investigation has been undertaken by the CB (as soon as it is deemed safe for the workers concerned and the auditor)</b>	Instigate their remediation policy and initiate work with affected crew members, flag state authorities or NGOs	Alert CB of issue(s)	Conduct investigation and communicate with GSA on possible next steps if the evidence supports that a zero-tolerance offense has occurred	Conduct flag state communication as necessary following the CB investigation
2	<b>Time-bound ban from certification i.e., 2+ years (certified vessels) to enable remediation actions to be implemented (as per the remediation policy)</b>	Remove all RFVS labels or mentions from products, vessel, and marketing materials	None	Inform Vessel(s) of suspension details and remediation requirements	Remove Vessel(s) from directory and support suspension/ remediation process. GSA reserves the right to inform endorser partners of suspension at any time
3	<b>Reintroduce into the RFVS program using a Probationary period mechanism i.e. requirement for additional audits every 6 months within the 1<sup>st</sup> year of their certificate to ensure issues are resolved fully before full RFVS certification status may be permitted. After this probation period, they would be allowed to revert to annual surveillance audits.</b>	Work with Auditor, CB, and GSA and successfully carry out the probationary period, demonstrating strong adherence to all requirements and timelines of their remediation action plan	Conduct vessel audits as required by CB, and liaise with vessel operator(s) to help with onboarding process	Track probationary period and schedule audits to reintegrate vessel(s) to RFVS. Act as resource for vessel operator(s) to discuss questions and concerns.	Manage probationary period and audit schedule with CB partner; provide support to vessel operator(s) as needed.
4	<b>These vessels would be risk rated as very high risk and would need to always have "on vessel" audits to maintain their RFVS certification status</b>	Accept risk rating and associated future audit requirements	None	Maintain risk rating and ensure all future audits are scheduled onsite, not remotely	Maintain risk rating and assist CB and vessel(s) as needed.
5	<b>Lifetime ban from the RFVS program would be considered for repeat offenders</b>	Accept/appeal a ban as they see fit	Provide evidence to CB/GSA to support lifetime ban	Review evidence and provide recommendation to GSA	Provide ultimate decision on lifetime ban

The actions outlined in Table 2 provide an overview of the requirements imposed on any applicant with a verified Zero Tolerance offence. However, given the range of actions that can qualify for this response, the variety of vessels participating in the RFVS, and the sensitive nature of many Zero Tolerance offenses, it is expected for this process to vary across applicants and to not follow the same timeline and format in all instances. Instead, it is expected that the auditor and CB work directly with the applicant to navigate each requirement in Table 2 and communicate mitigation actions and progress to GSA.

A lifetime ban shall be considered as a "last resort" option as part of this policy. As one goal of the Zero Tolerance Policy is to provide a pathway for applicant improvement when such offenses are encountered, a lifetime ban should only be applied to applicant that demonstrates repeated violations of Zero Tolerance offenses with inability or unwillingness to address corrective actions. It is the priority of GSA to retain a list of all applicant vessel(s) violating the Zero Tolerance Policy within the RVFS program so that their future activities can be continually monitored and improved.

## 4.1 Group Requirements

When a Zero Tolerance offence is encountered on a vessel that is part of a Group application or certificate, all steps outlined in Table 2 must be followed for that individual vessel, along with an additional set of precautions for the Group entity.

In addition to the vessel-specific requirements, the CB shall initiate a fleet-wide investigation to understand if the offense is considered isolated or systemic. The CB shall immediately notify the Vessel Group Manager (VGM) who shall assist in the investigation as required. Two options are available to the CB as means to investigate the Group Entity overall:

1. Instigate the enhanced audit protocols within the CB Requirements document to audit additional vessels within the Group.
2. Instigate a confidential survey/interview of the Group's crew members to determine if these issues are systemic or just isolated to the vessel in question

In exceptional circumstances the CB may utilize both options as part of the investigation. Where both options have been employed and the CB has not accepted the results of the investigation, the CB may request from GSA an extension and propose other means of investigation and/or guidance.

At the conclusion of the Group investigation, if the CB determines that the Zero Tolerance offense(s) were systemic and not an isolated event, then the entirety of the Group shall be suspended from the RFVS Program subject to requirements in Table 2. When the offense is determined to be isolated to a single vessel and not a systemic issue, then only the offending vessel shall be suspended and subject to Table 2 requirements.

If a Zero Tolerance offense is detected by a Group's internal auditor at any time this policy and process shall also be applicable, and any offending vessel shall be removed from the Group. It shall be the responsibility of the Group's VGM to ensure that the vessel instigates its own remediation policy and remains suspended from the Group subject to requirements in Table 2.

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