

Isle of Man Ship Registry

CONSULTATION:

Regulations Applying MARPOL Annex II – Control of Pollution by Noxious Liquid Substances in Bulk

Opening Date: 11 December 2019

Closing Date: 22 January 2020

Department for Enterprise

Proposed update to legislation implementing MARPOL Annex II – Regulations for the Control of Pollution by Noxious Liquid Substances in Bulk

The Isle of Man Ship Registry is consulting on a proposed set of updated Regulations to give effect to the latest version of MARPOL Annex II. The current Regulations applying MARPOL Annex II are the Merchant Shipping (MARPOL Annex II – Control of Pollution of Noxious Liquid Substances in Bulk) Regulations 2008, which will be revoked.

There have been a number of amendments to MARPOL Annex II since the current Regulations were written in 2008. Operators should be familiar with these requirements since these are already in force internationally and therefore we do not foresee any changes to current practices. Initially, the proposed Regulations will implement all amendments up to and including those within MEPC.270(69). From 1 October 2020, the proposed Regulations will implement the Convention up to MEPC.314(74) should these amendments be adopted in accordance with the procedure in Article 16 of MARPOL. From 1 January 2021, the proposed Regulations will implement the Convention up to MEPC.315(74) should these amendments be adopted in accordance with the relevant procedure.

MARPOL Annex II applies to all Manx ships - see Section 2 for further information. A summary of the most significant updates is provided in Section 6 of this Consultation.

Please address responses to this consultation to:

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When responding, please consider whether you are willing to have your response published and indicate your preference from the following options:

- **Response can be published together with your name/organisation**
- **Response can be published anonymously**
- **Response cannot be published**

This consultation will close at 17:00hrs on 22nd January 2020

SECTION 1 – INTRODUCTION

MARPOL Annex II is written to prevent pollution of the marine environment by noxious liquid substances (NLS) when carried by ships in bulk. It entered into force internationally in 1987.

The Annex applies to all ships which carry NLS in bulk regardless of size of vessel, or the quantity of bulk cargo carried. NLS are defined by MARPOL Annex II as any substances assessed or provisionally assessed by the IBC Code (Chapter 17 or 18) as falling into category X, Y or Z.

MARPOL Annex II also applies the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (the IBC Code) and the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (BCH Code) if the ship is carrying the substances listed in Chapter 17 of the IBC Code. A ship is required to comply with either the IBC or BCH Code depending upon the date of construction of the ship.

The Isle of Man currently gives effect to MARPOL Annex II by the Merchant Shipping (MARPOL Annex II – Control of Pollution of Noxious Liquid Substances in Bulk) Regulations 2008. It is proposed that these Regulations will be revoked and replaced with Regulations which will take account of amendments to MARPOL Annex II post-2008.

SECTION 2 – APPLICATION

The proposed Regulations will apply to all Manx ships and foreign ships when they are in the territorial waters of the Island and carrying NLS in bulk. There is no restriction on size of vessel or quantity of bulk cargo carried. The only exception will be that stated in Article 3 of the MARPOL Convention, i.e. the Regulations will not apply to warships, naval auxiliaries or other ships owned or operated by a State and used, for the time being, only on Government non-commercial service.

It should be noted that the current 2008 Regulations define a 'Manx ship' only as being registered under Section 1 of the Merchant Shipping Regulation Act 1991 (including ships registered under Part IV of that Act) i.e. ships registered with the Isle of Man Ship Registry. It is proposed to expand this definition to include ships registered under Part 3 of the Harbours Act 2010, i.e. those registered with the Department of Infrastructure's Ports Division. This is not thought likely to have any considerable impact upon these vessels since no such ships are likely to be carrying NLS in bulk, however the application is necessary in order to fully discharge the Isle of Man's obligations under the MARPOL Convention.

Where an NLS tanker carries oil cargoes that are subject to the provisions of MARPOL Annex I, the ship must also comply with the requirements of Annex I.

SECTION 3 - CODES

IBC & BCH Codes

MARPOL Annex II applies the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (the IBC Code) and the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (BCH Code). These codes are applicable for vessels which carry the substances specified in Chapter 17 of the IBC Code.

Such a ship should comply with either the IBC Code or BCH Code depending upon its date of construction. The IBC Code applies to NLS tankers constructed on or after 1 July 1986. The BCH Code applies to NLS tankers constructed before 1 July 1986, with variations of the Code applicable for ships constructed before 1 July 1983 or 2 November 1973 (see MARPOL Annex II Regulation 11.1 for full details).

The Isle of Man Ship Registry does not currently have any chemical tankers to which the BCH Code applies on our register and due to the age of these vessels we are unlikely to register any in the future. However, it is necessary to include the BCH Code within the scope of this project in order that it can be applied to foreign vessels when visiting the Isle of Man.

OSV Chemical Code

MARPOL Annex II Regulation 11.2 permits ships other than chemical tankers to carry limited quantities of NLS if they comply with the OSV Chemical Code and are certificated with a Certificate of Fitness.

It should be noted that the latest edition of MARPOL (2017 consolidated edition) references the OSV Chemical Code as being that specified in A.673(16) but it is important to note that this version has now been superseded by that in A.1122(30).

IGC Code

The IGC Code is applied by SOLAS Chapter VII.

MARPOL Annex II Regulation 5.3 deems that the IGC Code can be regarded equivalent to the IBC or BCH Code (as applicable) for the carriage of the NLS substances that are also listed in Chapter 19 of IGC Code provided that the ship meets the criteria stated in Regulation 5.3 of MARPOL Annex II.

Polar Code

Chapter 10 of MARPOL Annex II makes Chapter 2 of part II-A of the Polar Code mandatory for ships operating in Arctic waters. In addition, consideration should be given to the guidance in part II-B.

SECTION 4 – PORT STATE CONTROL REQUIREMENTS

Under the proposed Regulations, a foreign ship in the territorial waters of the Island must comply the requirements of MARPOL Annex II as apply to a ship of its description. A foreign ship in a port of the Island may be subject to inspection.

If an inspector carries out an inspection on a foreign ship in a port of the Island, and the certificates required by regulation 7 or 9 of MARPOL Annex II are not produced, have expired or ceased to be valid, the ship may be detained. A ship may also be detained if the inspector has clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of the certificate, or if the ship has discharged any NLS in violation of the provisions of the Convention.

SECTION 5 – VEGETABLE OIL EXEMPTIONS

Chapter 17 of the IBC Code categorises NLS based upon a number of criteria. Column E of Chapter 17 states that ship type that is required to carry each substance – ship type 1, 2 or 3.

Vegetable oils that are identified in column E as being 2(k) cargoes may be carried by Type 2 chemical tankers or Type 3 chemical tankers under the exemption in MARPOL Annex II Regulation 4.1.3 (subject to the conditions stated therein).

It is noted that when carrying 2(k) cargoes, Type 2 tankers are restricted by the IBC Code to 3,000m³ of cargo per tank whereas Type 3 tankers can carry to tank capacity, therefore some Type 2 NLS tankers may also wish to hold a Type 3 Certificate of Fitness under the IBC Code. In such circumstances, it is proposed to allow a ship to hold dual certificates of fitness on the basis that the RO will attend to re-instate the certification each time a vessel switches type.

SECTION 6 – SUMMARY OF AMENDMENTS

The following is provided only as a limited summary of the most significant amendments since our existing MARPOL Annex II Regulations were made. Please consult the full text of MARPOL Annex II to fully understand the proposed Regulations.

MEPC.265(68) applies Chapter 2 of part II-A of the Polar Code. This prohibits any discharge into the sea of NLS, or mixtures containing such substances, in Arctic waters. Regulation 2.1.3 requires approval for the carriage of certain NLS substances in Arctic waters under certain circumstances.

MEPC.270(69) applies amendments to the GESAMP (Group of Experts on the Scientific Aspects of Marine Environmental Protection) Hazard Evaluation Procedure which is applied

by Appendix 1 of MARPOL Annex II. This is the procedure used for the categorisation of noxious liquid substances.

MEPC.314(74) permits the use of an electronic Cargo Record Book from 1 October 2020 so long as it is approved in accordance with the IMO Guidelines published in MEPC.312(74). The Ship Registry shall issue further guidance on this matter in due course to clarify the interpretations required by MEPC.312(74).