

Regulations on Environmentally Sustainable Behaviour in Maritime Shipping (Maritime Environmental Behaviour Regulations)

Date of enactment: 13 August 2014

Long title:

"Maritime Environmental Behaviour Regulations of 13 August 2014 (Federal Law Gazette I, p. 1371)"

Section 2(1)(6) and (13), Section 2(2), Section 13(3) to (8), Sections 14, 15 and 23(1)(11) to (18) and Section 23 (2)(26) of these Regulations transpose Directive 2012/33/EU of the European Parliament and of the Council of 21 November 2012 amending Council Directive 1999/32/EC as regards the sulphur content of marine fuels (OJ L 327, 27.11.2012, p. 1).

Footnote

(+++ Text citation as of: 21 August 2014 +++)

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Transposition of

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These Regulations have been adopted as Article 1 of the Regulations of 13 August 2014 I 1371 of the Federal Ministry of Transport and Digital Infrastructure and the Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety in consultation with the Federal Ministry of Finance. In accordance with the first sentence of Article 5(1) of these Regulations, they shall enter into force on 21 August 2014.

Part 1

General Provisions

Section 1 Objectives

These Regulations govern:

1. requirements for environmentally sustainable behaviour in shipping;
2. the imposition of penalties in the event of violations of the requirements referred to in (1), in particular violations of provisions of the:
 - a) MARPOL Convention;
 - b) AFS Convention;
 - c) Ballast Water Convention.

Section 2 Definitions

(1) For the purposes of these Regulations:

1. "MARPOL Convention" means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (Federal Law Gazette 1996 II, p. 399, Annexes), last amended by Resolutions MEPC.193(61) (Federal Law Gazette 2013 II, pp. 1098, 1099) adopted in London by the Marine Environment Protection Committee of the International Maritime Organization (IMO), in the domestic version valid at any given time;
2. "AFS Convention" means the International Convention on the Control of Harmful Anti-fouling Systems in Ships, 2001 (Federal Law Gazette 2008 II, pp. 520, 522), in the domestic version valid at any given time;
3. "Ballast Water Convention" means the International Convention for the Control of Ships' Ballast Water and Sediments, 2004 (Federal Law Gazette 2013 II, pp. 42, 44), in the domestic version valid at any given time;
4. "Ship" means:
 - a) for the purposes of Part 2, a ship as defined in Article 2(4) of the MARPOL Convention;
 - b) for the purposes of Part 3, a ship as defined in Article 2(9) of the AFS Convention;
 - c) for the purposes of Part 4, a ship as defined in Article 1(12) of the Ballast Water Convention;
 - d) for the purposes of Section 3, a ship as defined in paragraphs (a) to (c) of the present subsection;
5. "Waste Convention" means the Convention of 9 September 1996 on Collection, Deposit and Reception of Waste Produced by Inland and Rhine Shipping (Federal Law Gazette 2003 II, pp. 1799, 1800), in the domestic version valid at any given time;
6. "Sulphur Directive" means Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC (OJ L 121, 11.5.1999, p. 13), last amended by Directive 2012/33/EU (OJ L 327, 27.11.2012, p. 1);
7. "TBT Regulation" means Regulation (EC) No 782/2003 of the European Parliament and of the Council of 14 April 2003 on the prohibition of organotin compounds on ships (OJ 115, 9.5.2003, p. 1), last amended by Regulation (EC) No 219/2009 (OJ L 87, 31.3.2009, p. 109);
8. "IAFS Certificate" means an International Anti-fouling System Certificate pursuant to Article 6 of the TBT Regulation or regulation 2 of Annex 4 to the AFS Convention;

9. "IAFS Declaration " means a Declaration on Anti-fouling System pursuant to Article 6 of the TBT Regulation or regulation 5 of Annex 4 to the AFS Convention;
10. "Inland Waterway Vessels (Surveys and Certification) Regulations" means the Inland Waterway Vessels (Surveys and Certification) Regulations of 6 December 2008 (Federal Law Gazette I, p. 2450), last amended by Article 2 of the Regulations of 16 June 2014 (Federal Law Gazette I, p, 748).
11. "Zone 1 and 2 Waterways" means the waterways listed in Annex I to the Inland Waterway Vessels (Surveys and Certification) Regulations;
12. "Ship Safety Regulations" means the Ship Safety Regulations of 18 September 1998 (Federal Law Gazette I, pp. 3013, 3023), as amended by Article 2 of the Regulations of 23 January 2014 (Federal Law Gazette I, p, 78);
13. "Marine fuel" means any petroleum-based liquid fuel as defined in regulation 18 of Annex VI to the MARPOL Convention and Article 2(3) of the Sulphur Directive.

(2) The bunker delivery note within the meaning of Article 4a(6) of the Sulphur Directive shall also be deemed to be a bunker delivery note in accordance with Appendix V to Annex VI of the MARPOL Convention.

Section 3 Scope of application

(1) These Regulations apply:

1. to ships on the areas of water listed in:
 - a) the third sentence of Section 1(1) of the Traffic Regulations for Navigable Waterways in the version promulgated on 22 October 1998 (Federal Law Gazette I, p. 3209; 1999 I, p. 193), last amended by Section 3 of Article 2 of the Regulations of 20 December 2012 (Federal Law Gazette I, p. 2802);
 - b) Section 1(1) of the Regulations introducing the Code of Shipping for the Ems Estuary of 8 August 1989 (Federal Law Gazette I, p. 1583), last amended by Section 17 of Article 3 of the Regulations of 19 December 2008 (Federal Law Gazette I, p. 2868; 2010 I, p. 380);as amended;
2. to ships on maritime waterways and in the exclusive economic zone of the Federal Republic of Germany; and
3. to ships flying the flag of the Federal Republic of Germany, including those sailing seaward of the boundary of the exclusive economic zone of the Federal Republic of Germany, unless different rules apply in territorial waters or exclusive economic zones of other states.

(2) The AFS Convention, the Ballast Water Convention and the MARPOL Convention, with the exception of Annexes III and V to the latter, apply on the water areas referred to in subsection (1)(1), unless otherwise provided for below.

(3) As far as ships operated by the Federal Armed Forces are concerned, the Federal Ministry of Defence shall ensure compliance with these Regulations, to the extent that it is affected by them, through provisions, procedures and organizations of its own. In doing so, it may derogate from the contents of the provisions of these Regulations if this is necessary for the accomplishment of the special tasks of the Federal Armed Forces, having due regard to the protection of the marine environment. These Regulations do not apply to warships of other states.

Part 2

Supplementary provisions to the annexes of the MARPOL Convention

Sub-part 1

Annex 1

Section 4 Oil Record Book

(1) The master or other person in charge of the ship shall ensure that:

1. the operations described in Appendix III to Annex I are recorded without delay in the Oil Record Book referred to in paragraph 1 of regulation 17 and paragraph 1 of regulation 36 of Annex I to the MARPOL Convention;
2. each entry in the Oil Record Book is signed without delay by the officer responsible for maintaining record books.

(2) The master shall, without delay, sign every page of the Oil Record Book after the last entry on the page in question.

(3) The officer responsible for maintaining record books shall, without delay, sign the entries required by Appendix III to Annex I to the MARPOL Convention.

(4) The second half-sentence of paragraph 2 of regulation 16, paragraphs 1 to 6 of regulation 17, the second sentence of paragraph 3 of regulation 18 and paragraphs 1 to 6 of regulation 36 of Annex I to the MARPOL Convention shall, in the case of ships flying the flag of a state that is not a Party to Annex I of the MARPOL Convention, be deemed to have been fulfilled if the entries required by the aforementioned regulations are made without delay, in their entirety and truthfully in an Oil Record Book complying with that prescribed by the Convention, and at least for the period from arrival at

the previous port of call until the ship leaves the scope of these Regulations, at the latest when it enters the exclusive economic zone. If the Oil Record Book is maintained as part of the electronic logbook, subsections (1) to (3) shall be deemed to have been fulfilled if the electronic logbook has been approved by the competent entity of the state whose flag the ship is flying and is maintained in compliance therewith.

(5) On Zone 2 waterways in the North and Baltic Seas, the provisions of Annex I to the MARPOL Convention governing the maintenance of an Oil Record Book shall, in the case of vessels that are required to maintain an Oil Control Book under the provisions of the Waste Convention, be deemed to have been fulfilled if the Oil Control Book is maintained in a proper manner.

Section 5 Transfer of oil cargo between oil tankers at sea

(1) The master shall ensure that the information regarding STS operations required by paragraph 2 of regulation 42 of Annex I to the MARPOL Convention is provided in a timely manner to the local Waterways and Shipping Office via its vessel traffic service centre using VHF radio.

(2) The conduct of an STS operation on maritime waterways or the water areas listed in Section 3(1)(1) without the permission of the local Waterways and Shipping Office shall be prohibited. Permission shall be requested in writing in a timely manner and may have conditions or requirements attached to it.

Section 6 Oil, oily mixtures, oil residues

(1) Without prejudice to the provisions of the Waste Convention, the discharge of environmentally harmful oily mixtures on the water areas listed in Section 3(1)(1) shall be prohibited.

(2) A ship discharging oil or oily mixtures into the sea shall not be deemed to be proceeding *en route* within the meaning of paragraph 2, 3 or 6 of regulation 15 or paragraph 1 of regulation 34 of Annex I to the MARPOL Convention if it is conducting its voyage solely for the purpose of discharging these substances.

(3) The master or other person in charge of the ship shall not allow further connections overboard to be fitted to piping to and from tanks for oil residues as standard discharge connections referred to in regulation 13 of Annex I to the MARPOL Convention. A direct connection overboard shall also be deemed to exist if the oil filtering equipment required by paragraphs 1 and 2 of regulation 14 of Annex I to the MARPOL Convention is bypassed.

Sub-part 2

Annex II

Section 7 Cargo Record Book

(1) The master or other person in charge of the ship shall ensure that:

1. the operations described in Appendix 2 to Annex II are recorded without delay in the Cargo Record Book referred to in paragraph 1 of regulation 15 of Annex II to the MARPOL Convention;
2. each entry in the Cargo Record Book is signed without delay by the officer responsible for maintaining record books. The master shall, without delay, sign every page of the Cargo Record Book after the last entry on the page in question.

(2) The officer responsible for maintaining record books shall, without delay, sign the entries required by Appendix 2 to Annex II of the MARPOL Convention.

(3) Regulation 15 of Annex II to the MARPOL Convention shall, in the case of ships flying the flag of a state that is not a Party to Annex II of the MARPOL Convention, be deemed to have been fulfilled if the entries required by regulation 15 are made without delay, in their entirety and truthfully in the logbook or a Cargo Record Book complying with that prescribed by the Convention, and at least for the period from arrival at the previous port of call until the ship leaves the scope of these Regulations, at the latest when it enters the exclusive economic zone.

(4) If the Cargo Record Book is maintained as part of the electronic logbook, subsections (1) to (3) shall be deemed to have been fulfilled if the electronic logbook has been approved by the competent entity of the state whose flag the ship is flying and has been maintained in compliance therewith.

(5) On Zone 2 waterways in the North and Baltic Seas, the provisions of Annex II to the MARPOL Convention governing the maintenance of a Cargo Record Book shall, in the case of vessels that are required to carry on board a discharge form under the provisions of the Waste Convention, be deemed to have been fulfilled if a valid discharge form is carried on board.

Section 8 Discharge and provisional assessment of liquid substances

(1) A ship discharging Category X, Y or Z substances as defined in regulation 6 of Annex II to the MARPOL Convention into the sea shall not be deemed to be proceeding *en route* within the meaning of paragraph 2.1 of regulation 13 of Annex II if it is conducting its voyage solely for the purpose of discharging these substances.

(2) The *Berufsgenossenschaft* for the transport industry shall be responsible for the provisional assessment of a liquid substance not yet categorized for carriage in bulk under paragraph 3 of

regulation 6 of Annex II to the MARPOL Convention. For this purpose, it may request assistance from the Federal Environment Agency and the Federal Institute for Risk Assessment.

Sub-part 3

Annex IV

Section 9 Discharge of ship's sewage

(1) The discharge of ship's sewage into the sea in accordance with the clause preceding paragraph 1.1 of paragraph 1 and the clause preceding the second sentence of paragraph 3 of regulation 11 of Annex IV to the MARPOL Convention shall be prohibited:

1. outside the water areas listed in Section 3(1)(1) for ships engaged on a voyage from a German port to a German port:
 - a) for ships on maritime waterways;
 - b) for ships flying the flag of the Federal Republic of Germany, including seaward of the boundary of the maritime waterways;
2. in the Baltic Sea:
 - a) for ships not listed in paragraph 1 of regulation 2 of Annex IV to the MARPOL Convention, including pleasure craft, if these ships are equipped with a toilet fitted with a sewage holding tank, on maritime waterways,
 - b) for ships referred to in paragraph (a) flying the flag of the Federal Republic of Germany, including seaward of the boundary of the maritime waterways.

(2) The master or other person in charge of the ship may not navigate maritime waterways in the Baltic Sea with a ship, including a pleasure craft, that is equipped with a toilet and, in contravention of Section 6b(1) of the Ship Safety Regulations, is not fitted with a sewage holding tank. If a ship is encountered in that region without the necessary equipment, the *Berufsgenossenschaft* for the transport industry may, without prejudice to the first sentence:

1. order it to call at the nearest port; or
2. allow it to continue its voyage to leave the maritime waterways or to sail to a facility where retrofitting can be carried out.

To facilitate the staging of watersports events, the Federal Maritime and Hydrographic Agency may, at the request of the organizer, exempt participating vessels from the prohibition set out in the first sentence and attach conditions and (also retroactively) requirements to this decision.

Sub-part 4

Annex V

Section 10 Garbage Record Book

(1) The master or other person in charge of the ship shall ensure that the operations described in the first sentence of paragraph 3.1 or paragraph 3.4 of regulation 10 of Annex V are recorded in the Garbage Record Book referred to in the first sentence of paragraph 3 of regulation 10 of Annex V to the MARPOL Convention, with the information required by paragraph 3.2 of regulation 10 of Annex V.

(2) The master or other person in charge of the ship shall ensure that each entry is signed without delay in the Garbage Record Book by the officer responsible for maintaining record books.

(3) The master shall, without delay, sign every page of the Garbage Record Book after the last entry on the page in question.

(4) The officer responsible for maintaining record books shall, without delay, sign the entries required by the first sentence of paragraph 3.1 and paragraph 3.4 of regulation 10 of Annex V to the MARPOL Convention, at the latest on the day of entry.

(5) Paragraph 3 of regulation 10 of Annex V to the MARPOL Convention shall:

1. in the case of ships that are required to carry on board a Garbage Record Book, including on the water areas listed in Section 3(1)(1),
2. in the case of ships flying the flag of a state that is not a Party to Annex V of the MARPOL Convention, be deemed to have been fulfilled if the entries required by paragraph 3 of regulation 10 are made without delay, in their entirety and truthfully in the logbook or a Garbage Record Book complying with that prescribed by the Convention, and at least for the period from arrival at the previous port of call until the ship leaves the scope of these Regulations, at the latest when it enters the exclusive economic zone.

If, in the case referred to in paragraph 2 of the first sentence, the Garbage Record Book is maintained as part of the electronic logbook, subsections (1) to (4) shall be deemed to have been fulfilled if the electronic logbook has been approved by the competent entity of the state whose flag the ship is flying and is maintained in compliance therewith.

Section 11 Garbage management placards

In the case of ships of 12 m or more in length and 100 gross tonnage or less or with a licence to carry 15 persons or fewer which are pleasure craft or traditional ships, paragraph 1 of regulation 10 of Annex V to the MARPOL Convention on garbage management placards shall be deemed to have been fulfilled if:

1. they carry on board up-to-date joint guidance notices issued by the Federal Maritime and Hydrographic Agency and watersports associations on environmentally sound waste management and disposal on ships or such a guidance notice issued by an association and coordinated with the Federal Maritime and Hydrographic Agency or the Federal Ministry of Transport and Digital Infrastructure; and
2. the persons on board have been informed accordingly before the start of the voyage.

Section 12 Fishing gear

The competent authority to which the loss or discharge of fishing gear is to be reported in accordance with paragraph 6 of regulation 10 of Annex V to the MARPOL Convention shall be the local Waterways and Shipping Office. The report shall be transmitted to the vessel traffic service centre of the Waterways and Shipping Office using VHF radio.

Sub-part 5

Annex IV

Section 13 Compliance with the requirements to be met by low-sulphur marine fuel

(1) The master or other person in charge of the ship shall ensure that on the water areas listed in Section 3(1)(1) and within an Emission Control Area, only marine fuel that meets the requirements set out in the first sentence of paragraph 3.1.1.1, paragraph 3.1.1.2, 3.1.1.3 or 3.2.2.1 of regulation 18 in conjunction with paragraph 1.2, 1.3, 4.2 or 4.3 of regulation 14, paragraph 3.2.2.2 or 3.2.2.3 of regulation 18 of Annex VI to the MARPOL Convention is used.

(2) For ships flying the flag of the Federal Republic of Germany, the requirement to make entries in accordance with paragraph 6 of regulation 14 of Annex VI to the MARPOL Convention shall be deemed to have been met through the ship's logbook or engine room logbook referred to in Part B.II of Annex 1 to the Ship Safety Regulations.

(3) The master or other person in charge of the ship shall be required to check that the bunker delivery note is correct. After completion of bunkering operations, the persons referred to in the first sentence may not continue the ship's voyage unless a quantity of marine fuel with a maximum sulphur content in accordance with paragraph 1 is on board that is sufficient for the intended voyage on the water areas listed in Section 3(1)(1) and in an Emission Control Area. This does not apply in the cases referred to in subsection (5) or (6).

(4) River Police officers may, if they have reasonable suspicion, request that the master take samples or have samples taken from the fuel system, if this is feasible, and from sealed containers on board ships in order to determine whether marine fuel with a sulphur content exceeding that stipulated in subsection (1) has been used on the water areas listed in Section 3(1)(1) or within an

Emission Control Area. The sample shall be analyzed in accordance with Standard DIN EN ISO 8754 (2003) or DIN EN ISO 14596 (2007). The standards referred to in the second sentence have been published by Beuth-Verlag GmbH, Berlin and Cologne, and have been securely deposited in the archives of the German Patent and Trademark Office in Munich.

(5) Any decision on allowing equivalent alternatives within the meaning of regulation 4 of Annex VI to the MARPOL Convention to satisfy the requirements to be met by low-sulphur marine fuel shall be taken by the *Berufsgenossenschaft* for the transport industry with regard to ship-related technical measures and by the Federal Maritime and Hydrographic Agency with regard to other, especially organizational, measures, subject to the following provisos:

1. Equivalentents shall be allowed upon request as approval of an emission abatement method within the meaning of Article 2(3m) of the Sulphur Directive; approval may only be granted if the requirements set out in Article 4c(2), (3) and (4) of the Sulphur Directive are met.
2. Emission abatement methods approved in the methods described in Article 4d of the Sulphur Directive shall be deemed to have been approved.

(6) The *Berufsgenossenschaft* for the transport industry may only grant an exemption in accordance with paragraph 2 of regulation 3 of Annex VI to the MARPOL Convention upon request provided that all of the conditions in Article 4e of the Sulphur Directive are met.

(7) The discharge of washwater from exhaust gas cleaning systems on maritime waterways and in the German exclusive economic zone shall be prohibited unless it can be demonstrated that the discharge of washwater will not have any significant adverse impact on human health and the environment. If the chemical used is sodium hydroxide, it will suffice that the washwater meets the criteria of the 2009 Guidelines for Exhaust Gas Cleaning Systems adopted by the Marine Environment Protection Committee of the International Maritime Organization (MEPC.184(59)) (Federal Ministry of Transport Gazette 2010, p. 341) and that its pH value is not more than 8.0.

(8) Subsections (1) to (4) shall not apply if the third sentence of Section 4(2) of the Regulations on the Quality and Labelling of Fuels of 8 December 2010 (Federal Law Gazette I, p. 1849), as amended by Article 8(1) of the Regulations of 2 May 2013 (Federal Law Gazette I, p. 1021), is to be applied.

Section 14 Competent authority

The Federal Maritime and Hydrographic Agency shall be:

1. the competent authority within the meaning of regulation 18 of Annex VI, excluding paragraphs 9.2 and 9.3, to the MARPOL Convention;
2. the Administration within the meaning of paragraphs 2.4 and 8.2 of regulation 18 of Annex VI to the MARPOL Convention.

The register referred to in paragraph 9.1 of regulation 18 of Annex VI to the MARPOL Convention shall be maintained on the website www.bsh.de with the information requested from the suppliers.

Section 15 Bunkering operations

(1) The supplier of a marine fuel or the person responsible for its delivery shall be obliged:

1. to take a representative sample of the marine fuel delivered during the bunkering operation;
2. to take the sample in accordance with paragraph 8.1 of regulation 18 of Annex VI to the MARPOL Convention and in accordance with the 2009 Guidelines for the Sampling of Fuel Oil for Determination of Compliance with the Revised MARPOL Annex VI adopted by the Marine Environment Protection Committee of the International Maritime Organization (MEPC.182(59))(Federal Ministry of Transport Gazette 2010, p. 336);
3. to issue the master, on completion of bunkering operations, a bunker delivery note in accordance with Appendix V to Annex VI to the MARPOL Convention, specifying the marine fuel delivered, and to give him a sample taken during bunkering operations;
4. retain a copy of the bunker delivery note for at least three years after its issuance;
5. to hand over the copy of the bunker delivery note to officials from the Federal Maritime and Hydrographic Agency and river police for purposes of inspection, if requested to do so;
6. to ensure that only marine fuel meeting the requirements set out in the first sentence of paragraph 3.1.1.1, paragraphs 3.1.1.2, 3.1.1.3 or paragraph 3.2.2.1 of regulation 18 in conjunction with paragraph 1.2, 1.3, 4.2 or 4.3 of regulation 14, paragraph 3.2.2.2 or paragraph 3.2.2.3 of regulation 18 of Annex VI to the MARPOL Convention is supplied for use on board ships.

A sample shall be deemed to be representative if it meets the requirements set out in paragraph 2 of the first sentence or complies with an approved exception.

(2) The master shall be obliged to ensure that on-board assistance is provided when the sample is being taken.

(3) The Federal Maritime and Hydrographic Agency may allow derogations from application of the guidelines referred to in paragraph 2 of the first sentence of subsection (1), either in general or on a case-by-case basis, if the taking of the sample would otherwise endanger the ships involved, their crews or other persons.

Part 3

Supplementary Provisions to the AFS Convention and its Annexes

Section 16 Navigating rules

(1) The master or other person in charge of a ship flying the flag of a Member State of the European Union or a Party to the AFS Convention and which

1. bears organotin compounds acting as biocides in anti-fouling systems on its hull or external parts or surfaces, or
2. does not bear a coating that forms a barrier to such compounds leaching from the underlying antifouling systems not complying with the requirements of the AFS Convention,

must not operate said ship in the exclusive economic zone, on the maritime waterways or the water areas listed in Section 3(1)(1). On the maritime waterways and the water areas listed in Section 3(1)(1), this shall also apply to a ship flying the flag of another state that is not a Party to the AFS Convention and that is calling at or leaving a German port. This shall be without prejudice to Article 18 of the United Nations Convention on the Law of the Sea of 10 December (Federal Law Gazette 1994 II, pp. 1798, 1799) on innocent passage.

(2) Subsection (1) shall not apply to ships engaged on a voyage to a facility to have their anti-fouling system renewed.

Section 17 Documents to be carried on board

The master shall be obliged to carry on board the documents referred to in paragraphs 1 and 2 and to present them for inspection if requested to do so by the officials of the competent authorities:

1. for ships flying the flag of a Member State of the European Union or a Party to the AFS Convention:
 - a) of 400 gross tonnage or more: an IAFS Certificate;
 - b) of less than 400 gross tonnage and 24 metres or more in length: an IAFS Declaration;
2. for ships flying the flag of another state that is not a Party to the AFS Convention and entering or leaving a German port: a Statement of Compliance delivered by the Administration of the flag State which must be in accordance with Article 2(4) of Commission Regulation (EC) No 536/2008 of 13 June 2008 giving effect to Article 6(3) and Article 7 of Regulation (EC) No 782/2003 of the European Parliament and of the Council on the prohibition of organotin compounds on ships and amending that Regulation (OJ L 156, 14.6.2008, p. 10).

Part 4

Supplementary Provisions to the Ballast Water Convention and its Annex

Section 18 Discharge of ballast water

(1) The discharge of ballast water into the sea shall be prohibited unless:

1. ballast water exchange has been performed in accordance with paragraph 1 of regulation D-1 of the Annex to the Ballast Water Convention in conjunction with paragraph 1.2 or 4 of regulation B-3 and paragraph 1 of regulation B-4 of the Annex to the Ballast Water Convention;
2. ballast water management has been conducted in accordance with paragraph 1 of regulation D-2 of the Annex to the Ballast Water Convention in conjunction with paragraph 1.2, 3, 4 or 5 of regulation B-3 of the Annex to the Ballast Water Convention;
3. in the cases referred to in Article 9(3) or Article 10(2) or (3) of the Ballast Water Convention, the Federal Maritime and Hydrographic Agency has granted permission after being requested to do so.

(2) For ships operating exclusively in the North Sea or in the Baltic Sea or between these maritime areas with no any opportunity to exchange ballast water in accordance with regulation D-1 of the Annex to the Ballast Water Convention, the Federal Maritime and Hydrographic Agency may allow derogations, either in general or on a case-by-case basis if requested to do so, if the Guidelines establishing Areas for the Exchange of Ballast Water (Federal Ministry of Transport Gazette 2011, p. 236) are complied with.

(3) The Federal Maritime and Hydrographic Agency may, if requested to do so, grant exemptions in accordance with regulation A-4 of the Annex to the Ballast Water Convention if the Guidelines for Risk Assessment (Federal Ministry of Transport Gazette 2011, p. 546) are complied with.

(4) The *Berufsgenossenschaft* for the transport industry and the river police forces of the federal states shall inform the Federal Maritime and Hydrographic Agency, providing the data listed in paragraphs (1), (3), (4) and (6) of the first sentence of Section 9e(1) of the Maritime Shipping (Federal Competences) Act, of ships that have been inspected under Article 9 of the Ballast Water Convention or of violations detected within the scope of enforcing Article 10 of the Ballast Water Convention, if there are indications that the ship represents a threat of harm to the environment, human health, property or resources.

Section 19 Approval of the Ballast Water Management plan and Ballast Water Management systems

(1) The *Berufsgenossenschaft* for the transport industry shall, if requested to do so, approve the Ballast Water Management plan referred to in regulation B-1 of the Annex to the Ballast Water Convention. If necessary, it shall involve the Federal Maritime and Hydrographic Agency.

(2) Before approving Ballast Water Management systems as described in regulation D-3 of the Annex or prototype Ballast Water treatment technologies as described in regulation D-4 of the Annex to the Ballast Water Convention, the Federal Maritime and Hydrographic Agency may consult recognized institutes or accredited laboratories for the assessment of toxicological, ecotoxicological or other environmental risks.

(3) The Federal Maritime and Hydrographic Agency may, if requested to do so, amend the certificate of approval for a Ballast Water Management system; in particular, it may transfer the approval to a different holder.

Section 20 Documents to be carried on board

The master of a ship flying the flag of a state that is a Party to the Ballast Water Convention shall be obliged to carry the following documents on board and present them for inspection if requested to do so by the officials of the competent authorities:

1. the Ballast Water Management plan required by regulation B-1 of the Annex to the Ballast Water Convention;
2. the Ballast Water record book required by regulation B-2 of the Annex to the Ballast Water Convention.

Section 21 Ballast Water record book

(1) The master or other person in charge of the ship shall ensure that:

1. the operations described in paragraph 3 and the first sentence of paragraph 5 of regulation B-2 and paragraph 5 of regulation B-4 are recorded without delay in the Ballast Water record book required by paragraph 1 of regulation B-2 of the Annex to the Ballast Water Convention;
2. each entry in the Ballast Water record Book is signed without delay by the officer responsible for maintaining record books;
3. the Ballast Water record book is kept on board as required by paragraphs 2 and 4 of regulation B-2 of the Annex.

The master shall, without delay, sign every page of the Ballast Water record book after the last entry on the page in question.

The officer responsible for maintaining record books shall, without delay, sign every entry required by the first sentence of paragraph 5 of regulation B-2 of the Annex to the Ballast Water Convention.

Regulation B-2 of the Annex to the Ballast Water Convention shall, in the case of ships flying the flag of a state that is not a Party to the Ballast Water Convention, be deemed to have been fulfilled if the entries required by regulation B-2 are made without delay, in their entirety and truthfully in the logbook or a Ballast Water record book complying with that prescribed by the Convention, and at least for the period from arrival at the previous port of call until the ship leaves the scope of these Regulations, at the latest when it enters the exclusive economic zone. If the Ballast Water record book is maintained as part of the electronic logbook, subsections (1) to (3) shall be deemed to have been fulfilled if the electronic logbook has been approved by the competent entity of the state whose flag the ship is flying and has been kept in compliance therewith.

Section 22 Ballast Water exchange areas

The Federal Maritime and Hydrographic Agency may establish Ballast Water exchange areas within the meaning of regulation B-4 of the Annex to the Ballast Water Convention in accordance with the Guidelines establishing Areas for the Exchange of Ballast Water (Federal Ministry of Transport Gazette 2011, p. 236). Before consulting neighbouring states, it shall consult the federal coastal states affected, the Federal Environment Agency and the Federal Institute for Risk Assessment.

Part 5 Administrative Offences

Section 23 Administrative offences

(1) An administrative offence within the meaning of Section 15(1)(2) of the Maritime Shipping (Federal Competences) Act shall be deemed to have been committed by anyone who, either intentionally or negligently:

1. in contravention of Section 4(1)(1), Section 7(1)(1), Section 10(1) or Section 21(1)(1), does not ensure that an operation referred to therein is recorded;
2. in contravention of Section 4(1)(2), Section 7(1)(2), Section 10(2) or Section 21(1)(2), does not ensure that an entry is signed;
3. in contravention of Section 4(2), Section 7(2), Section 10(3) or Section 21(2), does not sign a record page or does not do so in a timely manner;
4. in contravention of Section 4(3), Section 7(3), Section 10(4) or Section 21(3), does not sign an entry or does not do so in a timely manner;

5. in contravention of Section 5(1), does not ensure that a piece of information is provided;
6. conducts an STS operation without having permission under the first sentence of Section 5(2);
7. in contravention of Section 6(1), discharges an oily mixture;
8. in contravention of Section 6(3), allows further connections overboard to be fitted;
9. in contravention of Section 9(1), discharges ship's sewage;
10. in contravention of the first sentence of Section 9(2) or the first sentence of Section 16(1), navigates on a body of water listed therein;
11. in contravention of Section 13(1), does not ensure that only fuel specified therein is used;
12. in contravention of the second sentence of Section 13(3), continues the ship's voyage;
13. in contravention of the first sentence of Section 13(7), discharges washwater;
14. in contravention of paragraph 3 of the first sentence of Section 15(1), does not issue a bunker delivery note, or issues a bunker note that is incorrect or incomplete, or does not issue a bunker note in a timely manner, or does not provide a sample or does not provide a sample in a timely manner;
15. in contravention of paragraph 4 of the first sentence of Section 15(1), does not retain a copy of the bunker delivery note or does not retain it for at least three years;
16. in contravention of paragraph 5 of the first sentence of Section 15(1), does not hand over a copy referred to therein or does not hand it over in a timely manner;
17. in contravention of paragraph 6 of the first sentence of Section 15(1), does not ensure that only fuel specified therein is delivered;
18. in contravention of Section 15(2), does not ensure that onboard assistance is provided;
19. in contravention of Section 17 or Section 20, does not carry on board a document referred to therein or does not present this document or does not present it in a timely manner;
20. in contravention of Section 18(1), discharges ballast water; or
21. in contravention of Section 21(1)(3), does not ensure that the Ballast Water record book is maintained.

(2) An administrative offence within the meaning of Section 15(1)(5)(a) of the Maritime Shipping (Federal Competences) Act shall be deemed to have been committed by anyone who violates the International Convention for the Prevention of Pollution from Ships, 1973, and the Protocol of 1978

relating thereto (Federal Law Gazette 1982 II, pp. 2, 4, 24; 1996 II, p. 399, Annexes; 2009 II, pp. 995, 996), last amended by Resolution MEPC.193(61) of 1 October 2010 (Federal Law Gazette 2013 II, pp. 1098, 1098) by, either intentionally or negligently:

1. in contravention of Article 8(1) in conjunction with Article I(1) in conjunction with Article II(1), Article III or Article V(1), in each case also in conjunction with Article I(2), of Protocol I, not reporting the discharge of harmful substances into the sea to the Maritime Emergency Reporting and Assessment Centre of the Central Command for Maritime Emergencies Germany, or reporting it incorrectly or incompletely, or not reporting it in a timely manner;
2. in contravention of the second sentence of paragraph 4.3 of regulation 6 of Annex I, not informing the appropriate authority of the port State or not informing it in a timely manner;
3. as master or other person in charge of the ship, in contravention of the third sentence of paragraph 3 of regulation 14 of Annex I, not retaining oily bilge water on board;
4. in contravention of paragraph 1, 2, 3, 4 or 6 of regulation 15 , paragraph 1 or 3 of regulation 34 or paragraph 2.3 of regulation 39 of Annex I, discharging oil or oily mixture into the sea;
5. as master or other person in charge of the ship, in contravention of paragraph 9 of regulation 15 or paragraph 9 of regulation 34 of Annex I, not retaining oil residues on board;
6. in contravention of paragraph 1 or paragraph 3 of regulation 16 of Annex 1, carrying ballast water or oil;
7. as master or other person in charge of the ship, in contravention of the first sentence of paragraph 1 of regulation 17, the first sentence of paragraph 1 of regulation 36 or paragraph 1 of regulation 37, not carrying on board an Oil Record Book or an emergency plan;
8. as master or other person in charge of the ship, in contravention of the first half-sentence or the second sentence of paragraph 6 of regulation 17 or paragraph 7 of regulation 36 of Annex I, not preserving an Oil Record Book, preserving it incorrectly or not preserving it for at least three years;
9. in contravention of the clause preceding paragraph 6.1 of paragraph 6 of regulation 30 of Annex I, discharging ballast water or oil-contaminated water;
10. as master or person otherwise responsible for maintaining record books, in contravention of paragraph 2.2 of regulation 39 of Annex I, not keeping a record of an operation referred to therein;
11. in contravention of the first half-sentence of paragraph 1 of regulation 43 of Annex 1, carrying or using a substance referred to therein;

12. in contravention of the second sentence of paragraph 3.3 of regulation 8 of Annex II, not informing the appropriate authority or not informing it in a timely manner;
13. in contravention of paragraph 1.1 or paragraph 1.3 of regulation 13 of Annex II, discharging into the sea a substance, residues of a substance referred to therein, ballast water, tank washings or any other mixture;
14. as master or other person in charge of the ship, in contravention of the first sentence of paragraph 6.1.1 of regulation 13 or the first sentence of paragraph 7.1.2 of Annex II, not prewashing a tank or not prewashing it in a timely manner;
15. as master or other person in charge of the ship, in contravention of the second or third sentence of paragraph 6.1.1 or the second sentence of paragraph 7.1.2 of regulation 13 of Annex II, not discharging residues referred to therein, discharging them incorrectly or not discharging them in a timely manner;
16. as master or other person in charge of the ship, in contravention of paragraph 1 of regulation 15 or paragraph 1 of regulation 17 of Annex II, not carrying on board a Cargo Record Book or an emergency plan;
17. as master or other person in charge of the ship, in contravention of the first half-sentence of the first sentence or the second sentence of paragraph 5 of regulation 15 of Annex II, not preserving a Cargo Record Book, preserving it incorrectly or not preserving it for at least three years;
18. in contravention of the clause preceding paragraph 1.1 of paragraph 1 or the clause preceding the second sentence of paragraph 3 of regulation 11 of Annex IV, discharging sewage into the sea;
19. in contravention of regulation 3 or paragraph 1 or regulation 5 of Annex V, discharging garbage into the sea;
20. as master or other person in charge of the ship, in contravention of paragraph 1.1 in conjunction with paragraph 1.2 of regulation 10 of Annex V, not displaying a placard referred to therein or not displaying it before the start of the voyage;
21. as master or other person in charge of the ship, in contravention of the first sentence in conjunction with the second or third sentence of paragraph 2 of regulation 10 of Annex V, not carrying on board a garbage management plan;
22. as master or other person in charge of the ship, in contravention of paragraph 6 of regulation 10 of Annex V, not submitting a report referred to therein, submitting a report that is incorrect or incomplete, or not submitting a report without delay;

23. as master or officer responsible for maintaining record books, in contravention of the first sentence of paragraph 6 in conjunction with paragraph 7 of regulation 12 of Annex VI, not maintaining a record book or maintaining a record book that is incorrect or incomplete;
24. in contravention of paragraph 3, 4 or 5.1.1 of regulation 13 of Annex VI, operating a marine diesel engine;
25. as master or other person in charge of the ship, in contravention of the first sentence of paragraph 6 of regulation 14 of Annex VI, not carrying a written procedure referred to therein;
26. as master or officer responsible for maintaining record books, in contravention of the second sentence of paragraph 6 of regulation 14 of Annex VI, not making an entry, making an entry that is incorrect or incomplete, or not making an entry in a timely manner;
27. as master or other person in charge of the ship, in contravention of the first sentence of paragraph 6 of regulation 15 or the first sentence of paragraph 1 of regulation 22 of Annex VI, not carrying on board a plan referred to therein;
28. in contravention of paragraph 1, 2 or 3 of regulation 16 of Annex VI, incinerating a substance on board a ship;
29. as master or officer responsible for maintaining record books, in contravention of paragraph 5 of regulation 18 of Annex VI, not making a record or making a record that is incorrect or incomplete;
30. as master or other person in charge of the ship, in contravention of paragraph 6 of regulation 18 of Annex VI, not keeping the bunker delivery note, not keeping it correctly or not retaining it for at least three years; or
31. as master or other person in charge of the ship, in contravention of the second sentence of paragraph 8.1 of regulation 18 of Annex VI, not retaining a sample or not retaining it for the prescribed period.

An administrative offence within the meaning of Section 15(1)(5)(a) of the Maritime Shipping (Federal Competences) Act shall be deemed to have been committed by anyone who, as master or other person in charge of the ship, intentionally or negligently and in contravention of paragraph 1 of regulation B-2 of the Annex to the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004 (Federal Law Gazette 2013 II, pp. 42, 44), does not carry on board a Ballast Water record book.

(4) Responsibility for the prosecution and punishment of administrative offences is transferred to:

1. the Federal Waterways and Shipping Agency in the cases referred to in subsection 1(5) and (6) and subsection 2(1), (2) (12) and (22);

2. the Federal Maritime and Hydrographic Agency in the other cases referred to in subsections (1), (2) and (3).

Part 6 Final provisions

Section 24 Permission to publish

The Federal Ministry of Transport and Digital Infrastructure may publish the wording valid at any given time of the official German version of the MARPOL Convention, the AFS Convention and the Ballast Water Convention in the Federal Ministry of Transport Gazette.

Section 25 Transitional regime

(1) Sections 18, 20 and 23(1)(1) to (4), (16) to (18) and 23(3) shall, insofar as the provisions concern ballast water, not be applied until the day on which the Ballast Water Convention enters into force for the Federal Republic of Germany.

(2) The Federal Ministry of Transport and Digital Infrastructure shall announce the date referred to in subsection (1) in the Federal Law Gazette.