

Guidelines for the application of amendments to the list of substances in Annex II of MARPOL 73/78 and in the IBC Code and the BCH Code with respect to pollution hazards

1 *General*

1.1 The present guidelines apply to amendments to the list of substances set out in appendices II and III to Annex II of MARPOL 73/78, in chapters 17 and 18 of the IBC Code and in chapters VI and VII of the BCH Code, namely the addition or deletion of substances, and changes of the pollution category or the ship-type requirements on existing substances.

1.2 Regulation 2(7)(a) of Annex II of MARPOL 73/78 stipulates that where an amendment to this Annex and the International Bulk Chemical Code and the Bulk Chemical Code involves changes to the structure or equipment and fittings due to the upgrading of the requirements for the carriage of certain substances, the Administration may modify or delay for a specified period the application of such an amendment to ships constructed before the date of entry into force of that amendment, if the immediate application of such an amendment is considered unreasonable or impracticable. Such relaxation shall be determined with respect to each substance, having regard to the Guidelines developed by the Organization. The present Guidelines have been developed to ensure uniform application of that regulation.

1.3 With respect to the preparation and circulation of proposed amendments to the list of substances, paragraphs 1 to 4 of the Guidelines for future amendments to the IBC Code and the BCH Code (MEPC 25/20, annex 7) should apply.

2 *Definitions*

For the purposes of the present Guidelines, the following definitions apply:

2.1 *New ship* means a ship the keel of which is laid or which is at a stage at which:

- .1 construction identifiable with the ship begins; and
- .2 assembly has commenced comprising at least 50 tonnes or 1% of the estimated mass of all structural material, whichever is less;

on or after the date of entry into force of the relevant amendment.

2.2 A ship, irrespective of the date of construction, which is converted to a chemical tanker on or after the date of entry into force of the relevant amendment, should be treated as a chemical tanker constructed on the date on which such conversion commences. This conversion provision does not apply to the modification of a ship referred to in regulation 1(12) of Annex II of MARPOL 73/78.

2.3 *Existing ship* means a ship which is not a new ship as defined in paragraph 2.1.

2.4 *Dedicated ship* means a ship built or converted and specifically fitted and certified for the carriage of:

- .1 one named product only; or
- .2 a restricted number of products each in a tank or group of tanks such that each tank or group of tanks is certified for the carriage of one named product only or compatible products not requiring cargo tank washing for change of cargo.

2.5 *Domestic trade* means a trade solely between ports or terminals within the State the flag of which the ship is entitled to fly, without entering into the territorial waters of other States.

2.6 *International trade* means a trade which is not a domestic trade as defined in paragraph 2.5.

2.7 *Structure of a ship* includes only the major structural elements, such as double bottom, longitudinal and transverse bulkheads, essential to the completeness of the hull necessary to meet the ship-type requirements. Piping systems, fittings and equipment such as underwater discharge outlets, stripping systems, high-level alarms, gauging devices etc., are not considered to be part of the structure of a ship.

2.8 *New substance* means a substance which was not previously carried in bulk. A substance which is not included in Annex II of MARPOL 73/78, the IBC Code or the BCH Code but which is transported in bulk may be treated as an existing substance, provided that such substance has been provisionally assessed under the provisions of regulation 3(4) of Annex II of MARPOL 73/78 or is carried in accordance with the provisions of Annex I of MARPOL 73/78.

2.9 *Existing substance* means a substance which is not a new substance.

3 *Application of amendments to new and existing ships*

3.1 All amendments which constitute the inclusion of new substances and those resulting in downgrading of requirements for existing substances should apply to new and existing ships as from the date of entry into force of the amendments.

3.2 Amendments resulting in upgrading of requirements for existing substances:

New ship

3.2.1 All amendments should apply to new ships as from the date of entry into force of the amendments.

Existing ships

3.2.2 All amendments involving only operational requirements should apply to existing ships as from the date of entry into force of the amendments.

3.2.3 The Administration may modify or delay for a specified period the application of amendments involving changes to the structure or equipment and fittings to existing ships, if the immediate application of such amendments is considered unreasonable or impracticable. Such relaxation should be determined with respect to each substance, having regard to such factors as volume of cargo shipped, whether or not dedicated ships are involved, types and ages of ships involved, types of trades (e.g. domestic or international trades), etc.

3.2.4 When allowing such relaxation the following guidelines should apply:

- .1 In the case of amendments affecting the structure of ships:
 - .1.1 existing ships engaged in domestic trades should comply with the amended ship-type requirements not later than the end of the specified period which should not exceed ten years after the date of entry into force of the amendments;
 - .1.2 existing ships engaged on restricted voyages in international trade as determined by the Administration should comply with the amended ship-type requirements not later than the end of the specified period which should not exceed ten years after the date of entry into force of amendments, provided that:
 - .1.2.1 such relaxation is agreed among the Governments of the Parties concerned; and
 - .1.2.2 the Certificate of Fitness is endorsed to the effect that the ship is solely engaged in such restricted voyages;
 - .1.3 existing ships engaged in international trade other than the above should comply with the amended ship-type requirements as from the date of entry into force of the amendments.
- .2 In the case of amendments affecting the equipment and fittings:
 - .2.1 if the amendments necessitate the provision of an underwater discharge outlet, the outlet should be fitted not later than two years following the entry into force of the amendments;
 - .2.2 if the amendments necessitate the efficient stripping system:
 - .2.2.1 until the end of the period of two years following the entry into force of the amendments or until 2 October 1994, whichever occurs later, the ship should comply with the requirements of regulation 5A(2)(b) or 5A(4)(b) of Annex II of MARPOL 73/78, as applicable;
 - .2.2.2 after the above date, the efficient stripping system should be fitted to comply with the applicable requirements of regulation 5A.
 - .2.3 The requirements for the discharge of effluent below the waterline need not apply until the underwater discharge outlet has been fitted.

3.2.5 As a general rule, the relaxation mentioned in paragraph 3.2.4.1 should be accepted only for existing dedicated ships. In exceptional cases, however, where the immediate application of such amendments to existing non-dedicated ships will

create serious difficulties for clear and acceptable reasons, such as very large volumes of cargo being shipped, the application may be delayed for a limited period.

3.2.6 The Certificate of Fitness should be endorsed by the Administration specifying the relaxation allowed.

3.2.7 The Administration allowing a relaxation of the application of amendments should submit to the Organization a report giving details of the ship or ships concerned, the cargoes carried, the trade in which each ship is engaged and the justification for such relaxation.

3.2.8 A Member Government may notify the Organization that it does not accept the relaxation.

3.2.9 The notification made under 3.2.8 and 3.2.9 should be circulated to other Governments.