

For Electronic Distribution – November 24, 2014

**Re: Transport Canada's Proposed Changes to Vessel Pollution and Dangerous Chemical Regulation and Call for PRAC Members**

*Please forward to elected officials and the CAO.*

The following and attached is information that will be of specific interest to AVICC members. It has been forwarded from Transport Canada by Marylyn Chiang, Senior Policy Analyst, Environment & Healthy Communities Committee, Union of BC Municipalities:

**1) TC's Consultation on Vessel Pollution and Dangerous Chemicals Regulation**

We have received a request to provide feedback on Transport Canada's proposed changes to the Vessel Pollution and Dangerous Chemicals Regulation.

Essentially, Transport Canada is considering changes to the Vessel Pollution and Dangerous Chemicals regulations in an effort to update requirements to reflect new international standards; respond to technical issues raised by stakeholders; and to make minor adjustments to the regulation.

Key amendments include:

- New annual tanker inspections
- New provisions for oil barges
- New standards for managing garbage
- Changes to discharge requirements for sewage
- Consequential amendments for administrative monetary penalties and ticketing

There are some positive changes, such as annual inspections for tankers, and some potentially contentious ones, such as removing the requirement for boats under a certain size to have double hulls.

Attached are the consultation documents.

Local governments should provide their feedback, by **January 9th, 2015** to:

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Transport Canada, Marine Safety and Security  
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Email [paul.topping@tc.gc.ca](mailto:paul.topping@tc.gc.ca)

Please cc your response to:

- Paul Mudroch, Senior Environmental Advisor, Transport Canada, same address as above, email: [paul.mudroch@tc.gc.ca](mailto:paul.mudroch@tc.gc.ca)

- Marylyn Chiang, Senior Policy Advisor, UBCM [mchiang@ubcm.ca](mailto:mchiang@ubcm.ca)

**2) Call for Members on PRAC**

Transport Canada is looking for new members for their Pacific Regional Advisory Council (PRAC) on Oil Spill Preparedness and Response. The existing membership on PRAC will expire at the end of December 2014. Transport Canada is looking for expressions of interest to fill these positions and to establish an eligibility list for future vacancies.

The PRAC, a key part of Canada's preparedness and response system since 1995 is an advisory group comprised of up to seven members, who are appointed by the Minister of Transport to represent the communities and interests potentially affected by a ship source marine oil spill. In this role, PRAC provides the opportunity for members to discuss regional issues and provide advice to the Minister of Transport on oil spill preparedness and response.

For more information, please see the attached document on PRAC. They are looking for staff level members (as opposed to elected officials). PRAC members can be from municipalities, the fishing and aquaculture sector, shipping, etc, however, there is no one on the current Council that represents community interests. So, I would encourage you to apply for one of these seats.

The deadline for this is December 1, but we are looking to get an extension on this so they receive more applicants from LGs in BC.

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## **Introduction**

This document sets out potential changes to the *Vessel Pollution and Dangerous Chemicals Regulations* (SOR/ 2012-69) (the Regulations) and the rationales for these changes.

The Regulations implement in Canada the standards of the *International Convention for the Prevention of Pollution from Ships*, also known as MARPOL. Many of the changes to the Regulations simply implement changes to MARPOL and its supporting standards. The International Maritime Organization's Marine Environment Protection Committee (MEPC) administers MARPOL and its supporting standards, revising them from time to time. These changes made by MEPC are set out as MEPC resolutions, which are cited in this document and can be found at the IMO's online Knowledge Centre at:

[http://www.imo.org/KnowledgeCentre/IndexofIMOResolutions/Pages/Marine-Environment-Protection-Committee-\(MEPC\).aspx](http://www.imo.org/KnowledgeCentre/IndexofIMOResolutions/Pages/Marine-Environment-Protection-Committee-(MEPC).aspx)

Please note, the IMO's web site is in English only, for French text of an MEPC resolution, or other IMO document, please contact us at [marinesafety-securitemaritime@tc.gc.ca](mailto:marinesafety-securitemaritime@tc.gc.ca)

Other changes to the Regulations seek to address issues that have come to Transport Canada's attention through experience with their implementation or from comments by stakeholders. These potential changes are set out in order of the provisions of the Regulations.

As well, potential amendments to the *Administrative Monetary Penalties and Notices (CSA 2001) Regulations* (SOR/2008-97) and tickets under the *Contraventions Regulations* (SOR/96-313) are also highlighted.

## ***Arctic Waters Pollution Prevention Act and shipping safety control zones***

### ***Issue***

The Regulations do not apply discharge requirements in shipping safety control zones under the Arctic Waters Pollution Prevention Act (AWPPA), but the AWPPA's jurisdiction applies to arctic waters, which extends beyond shipping safety control zones and is defined as

*“arctic waters” means the internal waters of Canada and the waters of the territorial sea of Canada and the exclusive economic zone of Canada, within the area enclosed by the 60th parallel of north latitude, the 141st meridian of west longitude and the outer limit of the exclusive economic zone; however, where the international boundary between Canada and Greenland is less than 200 nautical miles from the baselines of the territorial sea of Canada, the international boundary shall be substituted for that outer limit;*

This has led to concern on the Regulations applying discharge requirements in waters outside of shipping safety control zones that still fall in the jurisdiction of the AWPPA. Of note, Section I and II waters are defined as

*“Section I waters” means fishing zone 1, fishing zone 2, fishing zone 3 and*

*(a) for the purposes of Division 1 of Part 2, any other portion of the internal waters of Canada that is not in arctic waters; and*

*(b) for the purposes of Divisions 4, 5 and 7 of Part 2, any other portion of the internal waters of Canada that is not in a shipping safety control zone.*

*“Section II waters” means waters under Canadian jurisdiction that are not in*

*(a) fishing zone 1, fishing zone 2, fishing zone 3 or any other portion of the internal waters of Canada; or*

*(b) arctic waters.*

### ***Suggested change***

To section 3 of the Regulations (Application), add a new subsection (5) that all sections that set out authorized discharges would not apply in arctic waters as defined under the AWPPA. From this change the definitions of Section I and II waters also need to be adjusted.

## **Government vessels (subsection 3(3))**

### ***Issue***

The Regulations exempt government vessels in subsections 3(3) and (4), which read as

*(3) Sections 187 and 189 of the Act and these Regulations do not apply in respect of government vessels.*

*(4) These Regulations, other than sections 5, 30, 31, 101 and 102, do not apply in respect of vessels that are owned or operated by a foreign state when they are being used only in government non-commercial service.*

This implements an obligation under Article 3(3) of MARPOL to exempt government vessels on non-commercial service. However, the text in section 3(3) of the Regulations exempts all government vessels, which are defined in the *Canada Shipping Act, 2001* (the Act) as

*“government vessel” means a vessel that is owned by and is in the service of Her Majesty in right of Canada or a province or that is in the exclusive possession of Her Majesty in that right.*

It is unclear if a vessel that is “*in the service of Her Majesty in right of Canada or a province*” has the same meaning as being “*used only in government non-commercial service*”. For example, a Transport Canada owned ferry –which is in commercial service– could still be considered as a government vessel as the service could still be reasonably viewed as “*in the service of Her Majesty*” despite the intent that such a vessel should not be exempt as it is on commercial service.

***Suggested change***

Subsection 3(3) of the Regulations would be amended to refer to government vessels used only in non-commercial service.

## **Canadian Vessels in Special Areas with respect to sewage**

***Issue***

“Special Areas” are designated under MARPOL to provide greater protection than normally provided under MARPOL for specific areas in the waters under the jurisdiction a country or group of countries. Special Areas may be proposed for environmental, social or cultural reasons. These are similar to Particularly Sensitive Sea Areas, which cover issues generally outside of MARPOL. The process to establish either a Special Area or Particularly Sensitive Sea Area is largely the same and is set out in IMO Guidelines for the designation of special areas under MARPOL 73/78 and guidelines for the identification and designation of particularly sensitive sea areas (IMO Assembly Resolution A.927(22)).

Amendments to MARPOL under Resolution MEPC.200(62) created a new Special Area under Annex IV to MARPOL for the Baltic Sea that impose stringent controls for passenger vessels to manage nitrates and phosphates in sewage as a measure to address concerns on eutrophication –the rapid growth of algae which depletes water of oxygen and impacts other living things in the water. This Special Area is not yet in force, but has conditions for the coming into force linked to the availability of facilities and technology to manage nitrates and phosphates in sewage. Canadian passenger vessels in the area at that time would need to comply and as a Party to Annex IV, Canada has an obligation to ensure its vessels do so.

***Suggested change***

Add a new subsection (4) to section 7 of the Regulations to the effect that

on or after a date set in accordance with regulation 13.4 of Annex IV to MARPOL, a Canadian vessel, and a person on a Canadian vessel, must not discharge sewage in the Baltic Sea Special Area except in accordance with the requirements of regulation 11.3 of Annex IV to MARPOL or in the circumstances set out in section 5 that apply in respect of the discharge.

## **Relationship of the Regulations to marine protected areas in Canada**

### *Issue*

The Government of Canada has established marine protected areas, where in some cases discharges from vessels are prohibited. Such areas may be established under the *Oceans Act*, the *Canada National Marine Conservation Areas Act*, and the *Canada Wildlife Act*. For information on the development and overall coordination of marine protected areas in Canada please see:

<http://www.dfo-mpo.gc.ca/oceans/planning/marineprotection-protectionmarine/index-eng.htm#network>

It is important to note that not all such protected areas deal with impacts of vessel discharges, as many marine protected areas may seek to address other issues, for example the Endeavour Hydrothermal Vents Marine Protected Area was established for the protection of rare geological formations on the sea floor in a specific area on the West Coast.

For marine protected areas that do require a level of protection from vessel discharges, the Regulations, should provide some measures. Of note, owing to the extensive consultations to establish these areas and their national importance, many in the marine industry already proactively avoid these areas or avoid discharging in these areas.

Route restrictions, such as areas to avoid, fall under other regulations of the *Canada Shipping Act, 2001*, and are not the purview of the Regulations. Discharges of wastes from vessels, however, fall under the mandate of the Regulations.

### *Suggested changes*

Under the Regulations, create a new provision with the intent that:

No vessel may discharge oil, noxious liquid substances, sewage or garbage (which includes cargo residues) in the following areas:

1. Areas established under the Canada National Marine Conservation Areas Act
  - a. Fathom Five National Marine Park of Canada
  - b. Saguenay–St. Lawrence Marine Park
2. Areas established under the Oceans Act
  - a. Basin Head Marine Protected Area
  - b. Bowie Seamount Marine Protected Area
  - c. Eastport Marine Protected Areas

- d. Gilbert Bay Marine Protected Area
- e. Gully Marine Protected Area
- f. Musquash Estuary Marine Protected Area
- g. Tarium Niryutait Marine Protected Areas

## **Use and carriage of heavy fuel oils in the Antarctic waters**

### *Issue*

Amendments to Annex I to MARPOL under Resolution MEPC.189(60) added a new prohibition on use and carriage of heavy fuel oils in the Antarctic waters. Canadian vessels in these waters must comply and as a Party to Annex I, Canada has an obligation to ensure its vessels do so.

### *Suggested change*

Add a new subsection (6) to section 7 of the Regulations to the effect that:

A Canadian vessel must not carry heavy oil as cargo or use heavy oil as fuel in the Antarctic Area in accordance with the requirements of regulation 43 of Annex I to MARPOL except for a Canadian vessel engaged in securing the safety of ships or in a search and rescue operation.

The term “heavy oil” would be as listed in regulation 43.1 of Annex I to MARPOL.

The term “Antarctic Area” would be as defined in regulation 1.11.7 of Annex I to MARPOL.

## **Annual tanker inspections**

### *Issue*

As part of the government’s commitment under the World Class initiative, TC is seeking to convert the existing policy into a regulation to ensure that 100% of tankers over 5000 gross tonnage are inspected annually. Currently domestic tankers are inspected annually under the delegated statutory inspections program. Including this requirement in the Regulations would ensure that foreign tankers would be inspected each year on their first visit to Canada. This will enable the Government to meet this commitment under World Class tanker safety and ensure that TC has access to the full suite of compliance and enforcement measures.

### *Suggested changes*

The following provisions would be added to after sections 24 and 55 of the Regulations to the effect that:



1. Subject to item 5, the authorized representative of an [oil tanker (s.24)] [an NLS tanker (s.55)] of 5000 gross tonnage or more must ensure:
  - (a) that the Minister inspects the vessel annually to ensure that the requirements of the division continue to be met; and
  - (b) In the case of a foreign tanker, this inspection must be done on its first port of call in Canada and annually thereafter.
2. On completion of the annual inspection in item 1, the Minister will issue a certificate to the tanker, if the tanker has met all requirements of the Regulations.
3. The authorized representative of a tanker of 5000 gross tonnage or more must
  - (a) hold the certificate referred to in item 2 on board the vessel, and
  - (b) not load or unload cargo in Canada or in waters under Canadian jurisdiction unless this certificate is onboard the vessel.
4. Subject to item 5, a tanker of 5000 gross tonnage or more that does not have an annual inspection certificate referred to in item 2 onboard or refuses to be inspected in accordance with item 1 or 5 may be detained.
5. If for operational reasons, the Minister cannot inspect a tanker on its first call in Canada, the following provisions apply:
  - (a) The Minister may issue a temporary certificate if the Minister is satisfied the tanker is in compliance with the requirements of this division;
  - (b) The temporary certificate will be valid only for the duration of loading or unloading operations at the port, terminal or anchorage where the vessel is located; and
  - (c) The authorized representative must arrange for the vessel to be inspected by the Minister either at the next Canadian port or at a time and place agreed between the Minister and the authorized representative.

## **Provisions for oil barges**

### *Issue*

Oil barges are considered as oil tankers in the Regulations, however, as the provisions for tankers were developed with large transoceanic vessels in mind, not all of these provisions are effective for smaller oil barges. To address this, a Tug and Barge Working Group was convened at the Canadian Marine

Advisory Council which developed alternative provisions. As well, *the Standards and Guidelines for the Construction, Inspection and Operation of Barges that Carry Oil in Bulk* - TP 11960 (1995) set out additional considerations for oil barges. At this time Transport Canada is in the process of updating this document, which will also be extended to apply to chemical barges (which would be considered NLS tankers).

### ***Suggested changes***

In section 47 of the Regulations, the following changes would be made to the intent to:

1. add a new subsection that would exempt oil barges less than 150 gross tonnage from double hull requirements; and
2. add a new subsection that would specify alternative provisions as may be required from the revised TP 11960.

It is proposed the following practices will be considered to have met the equivalency to double hull protection as set out in subsection 46(3) of the Regulations.

- Decommissioning of side and wing tanks and carrying cargo only in tanks located along the centerline of the barge;
- The addition of new bulkheads or reconfiguration of existing bulkheads in tanks so that a continuous bulkhead runs along the length of the cargo spaces that is of at least 760 mm from the inside of the outer hull;
- Fitting into cargo spaces pre-fabricated tanks that are approved for the storage or carriage of oil by a recognized organization or by a standards issuing organization such as the Underwriters Laboratories (UL), Canadian Standards Association (CSA), American Society for Testing and Materials (ASTM), or the International Standards Organization (ISO);
- Such arrangement must not compromise the barge's stability, must ensure proper ventilation of the tanks and cargo spaces of the barge to prevent accumulation of hazardous vapours, and be verified by a recognized organization or naval architect;
- An alternative arrangement approved by class to be equivalent to double hull protection, which may include:
  - An oil resistant foam is applied to the inside of the outer hull to ensure a smooth surface, which can be to a thickness of less than 760 mm, and an oil resistant membrane liner is fitted over the foam the thickness of the liner should be appropriate for the pressure it will bear to be determined by class;
  - An oil resistant membrane liner is fitted inside the tank with the thickness of the liner to be appropriate for the pressure and conditions it will bear to be determined by class.

## **Clarifications of application of sewage provisions to pleasure craft**

### *Issue*

The provisions of Division 4 of Part 2 of the Regulations set out controls for all vessels to manage sewage. Some of these provisions refer to authorized representative without an additional reference to the owner or operator of a pleasure craft. An authorized representative applies only to a Canadian vessel, a registered fleet, or foreign vessel. A Canadian vessel is a vessel registered in Canada, while pleasure craft, if they have not voluntarily opted to be registered, are usually licensed. Therefore, pleasure craft normally do not have authorized representatives. This omission may create an unintended consequence of excluding pleasure craft from certain provisions

### *Suggested change*

Reference to “owner or operator of a pleasure craft” would be added adjacent to reference to “authorized representative” in the provisions set out in sections 86, 87, 91, 92, and 97 as appropriate.

## **Delete “sewage sludge” from definition of holding tank**

### *Issue*

The definition of a holding tank currently reads

*“holding tank” means a tank that is used solely for the collection and storage of sewage or sewage sludge and includes a tank that is an integral part of a toilet.*

The term “sewage sludge” is not needed. It is not used in the definition of “holding tank” under Annex IV to MARPOL, as that material is considered to be sewage and would be managed in the same way. Therefore, the removal of the term would not have impacts implementing Annex IV to MARPOL.

### *Suggested change*

In section 83 of the Regulations, the phrase “or sewage sludge” would be deleted from the definition of the term “holding tank”.

## **Discharge requirements for sewage**

### *Issue*

Small vessels, notably fishing vessels, continue to have challenges to comply with the regulations. Most of the concerns stem from communities where pump out facilities are either limited or not available.

Related to this concern, is an issue for passenger vessels on short routes –such as tour boats, where under requirements for holding tanks for their occupancy these vessels would have to install a hold tank that is too large for vessel. As well, the wording of the discharge provisions is complex and there stakeholders have sought clarifications.

### *Suggested changes*

Amend section 96 of the Regulations with the view to allow

1. Small vessels under 400 GT certified for less than 15 people to:
  1. Discharge sewage 1 nautical mile from shore, except in designated sewage area;
  2. Use a smaller holding tank suitable for crew and voyage.
2. Passenger vessels certified to 100 passengers on short routes less than 2 hours duration to use a smaller holding tank, but suitable for their voyages.

As well, section 96 would be amended to be structured into new two sections; one to set out requirements when the vessel is subject to Annex IV to MARPOL and, the second for smaller vessels that are not subject to MARPOL. The restructured section 96 should also clarify requirements for inland waters for vessels subject to Annex IV to MARPOL.

## **Allowance for vessels to use composting toilets**

### *Issue*

The emergence of composting toilets allows an affordable option for small vessels to manage onboard sewage. Several U.S. designed recreational yachts use integrated composting toilets. However, the current Regulations do not allow for their use, except as temporary storage for small vessels under 15 gross tonnage voyaging on the East and West Coasts.

### *Suggested change*

Amend the sewage provisions of the Regulations to the effect to allow vessels to use composting toilets to manage sewage Canadian waters.

## **Addition of new designated sewage areas**

### *Issue*

Some communities seek more stringent controls on sewage discharged from vessels in their local waters through establishing a designated sewage area as set out in Schedule 2 to the Regulations.

***Suggested change***

None at this time.

Transport Canada may consider establishing a designated sewage area, when it has been shown that there have been consultations to establish public support, there are adequate pump out facilities, and a clear definition of the proposed area has been provided.

**Implementing new IMO standards for managing garbage*****Issue***

International standards for how vessels manage their garbage have been updated under Resolution MEPC.201(62) which sets out a revised Annex V to MARPOL. These new standards have been in effect since January 1, 2013. As well, MEPC set out guidelines related to implementing the revised Annex V to MARPOL under the following resolutions.

<b>Resolution</b>	<b>Title</b>
<a href="#">MEPC.239(65)</a>	Amendments to the 2012 guidelines for the implementation of MARPOL Annex V
<a href="#">MEPC.221(63)</a>	2012 Guidelines for the development of a regional reception facilities plan
<a href="#">MEPC.220(63)</a>	2012 Guidelines for the development of garbage management plans
<a href="#">MEPC.219(63)</a>	2012 Guidelines for the implementation of MARPOL Annex V

While Canadian regulations are largely consistent with the new standards, some further adjustments are needed to fully implement them.

First, the most significant change is that garbage must not be “harmful to the marine environment” in order to be discharged at sea. These requirements would apply in marine coastal waters where MARPOL applies and would cover mainly cargo residues or any cleaning agents used to clean cargo holds. The Regulations already set out other requirements for the Great Lakes and St Lawrence waters.

Under the *Guidelines for the implementation of MARPOL Annex V*, in Resolution MEPC.2019(63), a substance is to be classed if it is “harmful to the marine environment” based on testing using methods set out under the United National General Harmonized System (GHS) of toxicological testing. The advantage of the GHS tests is their uniform usage over a wide variety of regulatory requirements around the world, which means most substances already have ample data to support their classification. It is acknowledged that some substances carried by maritime trade are not classed under the GHS system and that clients shipping these substances need to undertake test programs. To reduce this burden, IMO is working on lists of substances that are classified as “harmful to the marine environment” (a “black list” of

substances prohibited from discharge at sea) and those classified as “not harmful to the marine environment” (a “white list” of substances that may be discharged at sea).

Second, the revised Annex V to MARPOL now requires all vessels over 100 gross tonnage to have a garbage management plan, while previously this applied to vessels over 400 gross tonnage. While a garbage management plan does not require approval by the Administration (Transport Canada or a recognized organization), it is required to be kept on board and crew needs to be familiar with it. Guidance on preparing a garbage management plan can be found under Resolution MEPC.220(63).

Third, the revised Annex V to MARPOL removed the previous allowance for the discharge at sea of dunnage –material that is usually comprised of wood that is used to brace and secure cargo loaded onboard a vessel.

Fourth, the revised Annex V to MARPOL added a new allowance for the discharge of animal carcasses into the sea from those animals that died onboard while being carried as cargo.

Finally, the revised Annex V to MARPOL updated the definition of garbage to now read as

*Garbage means all kinds of food wastes, domestic wastes and operational wastes, all plastics, cargo residues, incinerator ashes, cooking oil, fishing gear, and animal carcasses generated during the normal operation of the ship and liable to be disposed of continuously or periodically except those substances which are defined or listed in other Annexes to the present Convention. Garbage does not include fresh fish and parts thereof generated as a result of fishing activities undertaken during the voyage, or as a result of aquaculture activities which involve the transport of fish including shellfish for placement in the aquaculture facility and the transport of harvested fish including shellfish from such facilities to shore for processing.*

### ***Suggested changes***

1. Subsection 101(1) of the Regulations would be adjusted to reflect the new provisions under Regulation 4 of Annex V to MARPOL, to the effect that
  - a. paragraph 101(1)(a) dealing with the discharge of dunnage would be deleted;
  - b. a new provision would be added setting out that garbage to be discharged at sea must not be harmful to the marine environment as determined in accordance with guidelines set out in Resolution MEPC.219(63);
  - c. a new provision would be added allowing for carcasses of animals carried as cargo and that died onboard the vessel to be discharged at sea out a new paragraph as far from the nearest land as possible; and
  - d. a new provision would be added that cleaning agents or additives contained in cargo hold, deck and external surfaces wash water to be discharged at sea must not be harmful

to the marine environment as determined in accordance with guidelines set out in Resolution MEPC.219(63).

2. Under the provisions of cargo residue in section 102 of the Regulations, add provisions that cargo residues in order to be discharged at sea from a vessel in marine coastal waters (referred to as Section II waters) must be substances classed as not harmful to the marine environment as determined in accordance with guidelines set out in Resolution MEPC.219(63).
3. In subsection 104(1) of the Regulations for garbage management plans, the reference to 400 gross tonnage would be replaced by 100 gross tonnage.
4. In section 1(1) of the Regulations, the definition for garbage would be amended as follows:

“garbage” means all kinds of **food wastes** ~~vietual~~, domestic **wastes** and operational wastes, **all plastics, cargo residues, incinerator ashes, cooking oil, fishing gear, and animal carcasses** that **are** is generated during the normal operation of a vessel and that **are** is likely to be disposed of continuously or periodically. ~~and includes plastics, dunnage, lining and packing materials, galley wastes and refuse such as paper products, rags, glass, metal, bottles, crockery, incinerator ash and cargo residues.~~ However, it does not include:

**(a) fresh fish, fresh fish parts generated as a result of fishing activities undertaken during the voyage, or as a result of aquaculture activities which involve the transport of fish including shellfish for placement in the aquaculture facility and the transport of harvested fish including shellfish from such facilities to shore for processing; and**

**(b) oil, oily mixtures, noxious liquid substances, liquid substances that are listed in chapter 18 of the IBC Code and categorized as OS in the Pollution Category column of that chapter, liquid substances that are provisionally assessed under regulation 6.3 of Annex II to MARPOL as falling outside category X, Y or Z, substances listed in Schedule 1, marine pollutants, sewage or sewage sludge.**

## Managing cargo residues in the Great Lakes and St Lawrence

### *Issues*

Section 102 of the Regulations set out conditions for what cargo residues may be discharged in the Great Lakes and St Lawrence waters and where they may be discharged in those waters for all vessels in Canada’s waters and for Canadian vessels in the waters of the United States. On January 31, 2014, the United States Coast Guard published in the Federal Register a final rule for “Dry Cargo Residue Discharges in the Great Lakes” which applies in the U.S. waters. Details of this final rule may be found

at <https://www.federalregister.gov/articles/2014/01/31/2014-01927/dry-cargo-residue-discharges-in-the-great-lakes> (English only web site)

### *Suggested changes*

Paragraphs 102(1)(b) and (d) are deleted and replaced by a new paragraph to the effect that discharges of cargo residues are authorized:

from a Canadian vessel in any of the Great Lakes waters of the United States, in accordance with the requirements of Title 33, section 155.66, of the Code of Federal Regulations of the United States for Dry Cargo Residue Discharges in the Great Lakes.

## **Provisions controlling emissions of nitrogen oxides**

### *Issues*

Recently, IMO made changes to how the Tier III emissions standards for nitrogen oxides were applied under Regulation 13 of Annex VI to MARPOL that will enter into force on September 1, 2015. The changes include an exemption for “super yachts” that was negotiated as part of a compromise that retained January 1, 2016 as the effective date for Tier III standards in the North American and U.S. Caribbean Emission Control Areas.

As well, as the review of the Tier III standards has been completed, the provision for that review will be removed. It should be noted, there is no requirement that prevents a future review, if the majority of IMO member countries wish to do so.

### *Suggested changes*

To section 110.3(2) of the Regulations, add a new a new provision to the effect of implementing the exemption from Tier III standards, described in regulation 13.5 of Annex VI to MARPOL as:

installed on a vessel constructed prior to 1 January 2021 of less than 500 gross tonnage, with a length of 24 m or over when it has been specifically designed and is used solely, for recreational purposes

Delete change of application date provision for Tier III standards in 110.3(5)

## **Retention fuel samples for short run vessels**

### *Issue*



Section 124(3) of the current Regulations implements regulation 18.8.1 of Annex IV to MARPOL, which requires fuel samples to be retained on board for a period of one year. The text of that regulation in MARPOL reads as follows:

*The bunker delivery note shall be accompanied by a representative sample of the fuel oil delivered taking into account guidelines developed by the Organization.\* The sample is to be sealed and signed by the supplier's representative and the master or officer in charge of the bunker operation on completion of bunkering operations and retained under the ship's control until the fuel oil is substantially consumed, but in any case for a period of not less than 12 months from the time of delivery.*

While this implements MARPOL requirements that were developed for transoceanic voyages, vessels on short run voyages (e.g. local ferries) face challenges retaining such samples on board for a full year as fuel deliveries are more frequent. However, a requirement for short run vessels to retain the sample until the fuel is consumed may be more reasonable.

#### ***Suggested change***

Amend section 124 of the Regulation to the effect of allowing a Canadian vessel that continuously voyages within Canadian waters along a route of less than 50 nautical miles, to retain the fuel sample until the fuel that the sample has been consumed.

## **CONSEQUENTIAL AMENDMENTS FOR ADMINISTRATIVE MONETARY PENALTIES AND TICKETING**

To ensure appropriate enforcement measures are available should the proposed changes be approved, the regulatory proposal would include consequential amendments to the *Administrative Monetary Penalties and Notices (CSA 2001) Regulations* (SOR/2008-97) to deal with:

- a Canadian vessel that violates the Baltic Sea Special Area, once it is in force;
- a vessel that violates restrictions set out for Marine Protected Areas\*;
- a Canadian vessel that uses or carries heavy oil in Antarctic waters;
- an oil or NLS tanker over 5000 gross tonnage that refuses to allow an inspector onboard for an annual inspection;
- an oil or NLS tanker over 5000 gross tonnage that does not have the inspection certificate onboard, or for which the certificate is no longer valid, or has proceeded with loading and unloading without the inspection certificate;

- an oil barge over 150 gross tonnage that after January 1, 2015, does not comply with section 47 of the Regulations
- small vessel not complying with proposed new provisions for managing sewage\*


The proposed amendments to the Regulations that are not referenced for consequential amendments are either not applicable to enforcement action or are already included in the *Administrative Monetary Penalties and Notices (CSA 2001) Regulations*.

Please note items with an “\*” denotes a potential amendment is needed for the *Contraventions Regulations*. As the *Contraventions Regulations* are administered by Justice Canada, Transport Canada does not have the mandate to make proposals to amend them. However, Transport Canada would be providing a recommendation to Justice Canada to seek such amendments. Timing, approvals and publication in the Canada Gazette, would be determined by Justice Canada.

Transport Canada / Transports Canada

## Proposed Changes to the Vessel Pollution and Dangerous Chemicals Regulations

Fall CMAC 2014



RDIMS# 9886228 Canada

### Introduction

- Transport Canada is advancing amendments to the Vessel Pollution and Dangerous Chemicals Regulations to
  1. Update requirements to reflect new international standards
  2. Respond to technical issues raised by stakeholders
  3. Make minor adjustments
- A discussion paper outlining the proposed changes is available on request.
- Comments are welcome until December 5, 2014.

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### Key changes

- New annual tanker inspections
- New provisions for oil barges
- New IMO standards for managing garbage
- Changes to discharge requirements for sewage
- Consequential amendments for administrative monetary penalties and ticketing

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### Key change: New annual tanker inspections

- Supports a commitment for mandatory annual tanker inspections under the World Class Tanker Safety System
- Builds on a current voluntary approach for oil tankers
- Oil and chemical tankers (including LNG) over 5000 gross tonnage to be inspected by Transport Canada inspectors on their first visit to Canada, and each year thereafter
  - Compliance with the Regulations, MARPOL and SOLAS.
- Certificate would be issued by the inspector and remain valid for one year

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### Key change: New provisions for existing oil barges

- Responds to review of the *Standards and Guidelines for the Construction, Inspection and Operation of Barges that Carry Oil in Bulk* - TP 11960
- Responds to concerns for small fuel barge operators face double hull requirements in January 1, 2015
- Oil barges
  - less than 150 GT would be exempted
  - between 150 and 5000 GT would have alternative options
  - over 5000 GT must follow the regulations

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### Options for Double hulling existing oil barges

- Decommissioning of side and wing tanks and carrying cargo only in tanks located along the centerline of the barge
- New bulkheads or reconfigure existing bulkheads to a continuous bulkhead along the length of the cargo spaces at least 760 mm from the inside of the outer hull
- Fitting pre-fabricated tanks into cargo spaces, approved by class or standards organization for oil storage
  - Must consider stability, ensure proper ventilation and be verified by a recognized organization or naval architect
- An alternative arrangement approved by class to be equivalent to double hull protection, which may include:
  - An oil resistant foam is applied to the inside of the outer hull to ensure a smooth surface, and an oil resistant membrane liner is fitted over the foam
  - An oil resistant membrane liner is fitted inside the tank

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## Key change: New IMO standards for managing garbage

- The Revised Annex V to the MARPOL Convention has been in force since January 1, 2013
- Canada is Party to Annex V and must meet new provisions
  - Dunnage can no longer be discharged overboard
  - Cargo owners need to classify their products as harmful to the marine environment or not
    - use the United Nations General Harmonized System (GHS) of toxicological testing
    - GHS is a broadly used system for many regulatory needs and data for most products are available
- Transport Canada working at IMO subcommittee on listing substances considered not harmful and harmful, to save need for testing

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## Key change: Discharge requirements for sewage

- Respond to concerns for small vessels that are not certified to navigate beyond 3 nautical miles
- Propose to amend section 96 of the Regulations to allow
  - Small vessels under 400 GT certified for less than 15 people may
    - discharge sewage 1 nautical mile from shore, except in designated sewage area
    - use a smaller holding tank, but suitable for crew and voyage
  - Passenger vessels certified to 100 passengers on short routes less than 2 hours duration may use a smaller holding tank, but suitable for their voyages
  - Above does not apply in designated sewage areas
- Section 96 would be re-drafted for clarity; dividing the clauses for large vessels (subject to Annex IV to MARPOL) and clauses small vessels (which are not)

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## Designated Sewage Areas

- As Transport Canada looks at further flexibility for small vessels to manage sewage, it is recognized some communities seek further controls
- Measures for further flexibility do not apply in designated sewage areas
- Designated sewage areas, set out in Schedule 2 to the Regulations provide enhanced protection, through a more stringent discharge standard
  - fecal coliform counts of 14/100mL compared to 250/100mL
  - As few vessels can meet this standard, only those with advanced waste water treatment systems, this basically bans sewage discharges
- Transport Canada may consider establishing further designated sewage areas, through this regulatory process, when proponents have
  - define a specific area and explain why it needs further protection
  - consulted stakeholders local municipal government,
  - provide information on available sewage reception facilities

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## Key change: Administrative monetary penalties (AMPs) and ticketing

- AMPs are an effective enforcement tool set out under *Administrative Monetary Penalties and Notices (CSA 2001) Regulations* (SOR/2008-97) range from \$250 to \$25,000
- Ticketing provides a more appropriate enforcement option for minor offenses, with a maximum fine of \$250
- TC administers the AMPs regulations while Justice Canada administers the *Contraventions Regulations*
- To ensure appropriate enforcement measures are available when the changes are made, the regulatory proposal would include consequential amendments to the AMPs Regulations
- At the same time, the Regulations are approved, TC will ask Justice Canada to proceed with changes to the *Contraventions Regulations*

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## Adjustments and clarifications

Proposed Change	Rationale
Extend exemption for discharges standards to Arctic waters beyond shipping safety control zones	Avoids potential conflict with the Arctic Waters Pollution Prevention Act
Exemption for government vessels to apply only when on non-commercial service	Makes the wording consistent with exemptions in the MARPOL Convention
Canadian Vessels to adhere to Special Areas for sewage (Annex IV to MARPOL)	New standard adopted by IMO
Add discharge prohibitions for certain Canadian marine protected areas (MPAs)	Ensure the Regulations do not conflict with certain MPAs set by DFO and Parks Canada

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## Adjustments and clarifications

Proposed Change	Rationale
Prohibit use and carriage of heavy fuel oils in the <b>Antarctic</b> waters	Implements IMO standard that Canada is party to
In sewage provisions, add references to owner or operator of pleasure craft	Clarifies that sewage provisions apply to pleasure craft
Delete "sewage sludge" from definition of holding tank	Change reflects international definition and term "sewage sludge" is not required
Allowance for vessels to use composting or incinerating toilets	Responds to emerging trend

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## Adjustments and clarifications

Proposed Change	Rationale
Align discharges of cargo residues in the Great Lakes and St Lawrence in US waters to US dry cargo residue rule	Ensures Canadian vessels in US waters adhere to US rules
Shorter retention of fuel samples for short run vessels	Relieves administrative burden for ferries and tugs over 400 GT
Exempt from Tier III nitrogen oxides standards vessels under 500 GT, but over 24 m long, built before 1 January 2021 designed and used only for recreational purposes	Reflect changes to IMO standards for "super yachts"
Remove provision to change date of Tier III NOx standards based on IMO review	IMO review completed, clause no longer needed

## Questions or Comments

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## **Oil Spill Council Seeks New Members**

Interested UBCM members are invited to apply for a seat on Transport Canada's Pacific Regional Advisory Council (PRAC) on Oil Spill Preparedness and Response.

### **Article**

Interested UBCM members are invited to apply for a seat on Transport Canada's Pacific Regional Advisory Council (PRAC) on Oil Spill Preparedness and Response.

The existing membership on PRAC will expire at the end of December 2014. Transport Canada is looking for expressions of interest to fill these positions and to establish an eligibility list for future vacancies.

The PRAC, a key part of Canada's preparedness and response system since 1995 is an advisory group comprised of up to seven members, who are appointed by the Minister of Transport to represent the communities and interests potentially affected by a ship source marine oil spill. In this role, PRAC provides the opportunity for members to discuss regional issues and provide advice to the Minister of Transport on oil spill preparedness and response.

PRAC members are considered for appointment to the council for terms not to exceed three years and meet approximately twice annually in Vancouver or other coastal BC communities. Participation is voluntary and members are expected to represent the interests of their community and/or organization.

The PRAC can include, but is not limited to, representatives from:

- Municipalities
- Fishing and aquaculture interests
- Environmental interests
- Aboriginal interests
- Port authorities
- Business and business associations
- Shipping interests and oil handling facilities
- Representatives from academia, marine law and related disciplines

If you are interested in becoming a member of PRAC, submit your resume along with a description of how you can contribute to Canada's marine oil spill preparedness and response regime. Please send this information by December 1, 2014 to:

Transport Canada Marine Safety and Security  
Pacific Regional Advisory Council Secretariat  
501-1230 Government Street,  
Victoria, British Columbia, V8W 3M4  
Email: [erik.kidd@tc.gc.ca](mailto:erik.kidd@tc.gc.ca)