

Response to consultation for Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008

	<b>Respondent</b>	<b>Date received</b>	<b>Summary of Comments</b>	<b>Response</b>
1	Scottish Natural Heritage	17/07/08	Supportive of proposals, but no formal comment made.	Noted.
2	ABP	01/08/08	<p>Supportive of proposals, on the understanding that costs associated with their implementation would not be borne by the ports industry. ABP are of the opinion that the necessary services can be provided through provision in Port Waste Management Plans of contact details of appropriate waste contractors.</p> <p><u>Specific comments on RIA</u> ABP agree that Option 2 in the Impact Assessment is the most appropriate one.</p>	Noted.
3	Nautilus UK	01/08/08	<p>Supportive of proposed Regulations, but feel that further measures could have been included with regard to the hazards associated with the use of Heavy Fuel Oil with respect to cancer causing particulates.</p> <p><u>Specific comments on draft SI:</u> <b>Reg 9:</b> Should be sufficient for master to demonstrate notification to the owner in the event of accident or defect – owner has ultimate sanction on maintenance and replacement of equipment.</p>	Noted, but it is appropriate for the master to also have responsibility.

			<p><b>Reg 11:</b> Essential that the Certifying Authority is the Regulatory Authority or a suitably capable and accountable other organisation.</p> <p><b>Reg 12:</b> Substantive measures should be put in place to ensure that delegated Governments/Certifying Authorities meet UK standards.</p> <p><b>Reg 17(3)(a):</b> Suggest that terminology used for Deck Officer and Marine Engineering Officer should be amended in line with STCW 95 terminology i.e. 'master II/2 unlimited' and 'chief engineer III/2 unlimited'</p> <p><b>Reg 28:</b> Consideration should be given to raising the minimum general detention security figure from £30K.</p> <p><b>Reg 29:</b> Consideration should be given to raising the minimum Harbour Master's detention security figure from £30K.</p> <p><b>Reg 30:</b> Essential that this section remains in the final Regulations to ensure active policing by the regulatory authorities.</p> <p><b>Reg 37:</b> Information should be provided as to level of fines, which should be proportionate to the offence and directed towards a corporate body rather than an individual.</p>	<p>As required by EC directive 2001/105/EC MCA already undertakes monitoring of those bodies to whom we delegate survey work</p> <p>Agreed. The Regulations have been amended to reflect the terminology expressed in the STCW Convention.</p> <p>The penalties are considered proportionate and reflect government policy on enforcement</p> <p>Agreed</p> <p>Regulation 32 (1) makes provision for Offences including where those offences would be by Master, owner or both. Information on the level of fines is specifically provided in Regulation 32(2) and</p>
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			<p><u>Specific comments on draft MSN:</u>  <b>Appendix 6:</b> Suggest that the Chief Engineer is given responsibility for recording evidence of change over to low sulphur fuel in the Marine Fuel Sulphur Record Book. Master to sign the record book on completion.</p> <p><u>Specific comments on draft MGN:</u>  As a matter of policy, Nautilus does not agree with delegation of MCA survey work to Classification societies. The proposed delegation should not be extended and appropriate audit measures should be implemented.</p> <p>Suggest that reference is made in MGN to all procedures being incorporated into procedures in accordance with the provisions of the ISM Code.</p>	<p>Regulation 32(3) and are in line with government policy on enforcement. It will be for the Court to determine the level of fine</p> <p>It is the Master's responsibility to ensure that the Marine Fuel Sulphur Record Book is completed. Should the Master wish to delegate this activity to the Chief Engineer they can, however, the Master remains responsible under these Regulations.</p> <p>Noted</p> <p>The International Management Code for the Safe Operation of Ships and for Pollution Prevention of Pollution (ISM Code) already requires that the safety management system of the ship complies with</p>
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				<p>mandatory rules and regulations. Specifically Section 1.4.2 of the ISM Code requires the Company to incorporate in the SMS instructions and procedures to ensure safe operation of ships and protection of the environment. Failure to include the procedures under these regulations would be considered a contravention of the ISM Code by the UK.</p>
4	Shell	08/08/08	<p><u>Comments on draft MSN:</u>  <b>Schedule 1:</b> Suggest that timelines are inconsistent with Para 20(3) of the Draft Statutory Instrument.</p>	<p>Schedule 1 of the draft MSN refers to EC regulation 2037/2000 on Ozone Depleting Substances which is implemented in the UK by SI 2002/528 "The Environmental Protection (Controls on Ozone-Depleting Substances) Regulations 2002", Part III "Offences relating to contraventions of Article 5".</p> <p>The UK Regulations prohibit:</p> <ul style="list-style-type: none"> <li>- from 1 October 2002 the use of Ozone Depleting Substances (ODS) except HCFCs;</li> <li>- from 1 January 2010 the use of virgin HCFCs for</li> </ul>

				<p>maintenance and servicing; - from 1 January 2015 the use of HCFCs for maintenance and servicing.</p> <p>New installations fitted prior to 19 May 2005 that contain ODS other than HCFCs are permitted, however, the servicing or maintenance of such systems is prohibited.</p> <p>MARPOL Annex VI permits until 1 January 2020 the use of HCFCs in new installations. However, after 1 January 2015 the maintenance or servicing of those systems is prohibited.</p> <p>After 1 January 2020 no new installations are permitted that contain ODS. Systems installed prior to 1 January 2020 are permitted after 1 January 2020, however, service and maintenance of those systems is prohibited from 1 January 2015 on a UK flagged vessel.</p> <p>Hence we do not agree that there is an inconsistency with MARPOL Annex VI.</p>
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			<p>be 22(4).</p> <p>Is list at Appendix 4 necessary? Could MSN not just refer to the Montreal Protocol instead?</p> <p><b>Appendix 5:</b> Point 2.2.1 Reference to Reg 22 – should this not be Reg 21? Point 2.3.1 Reference to Reg 23 - should this not be Reg 22?</p> <p><u>Comments on Impact Assessment:</u> Suggest update on cost section, as IA was devised before Annex VI was in force.</p>	<p>Regulation 22(5) makes reference to a duty on the master of a United Kingdom ship to make a record pursuant to paragraph (22) (3)(b) in a log book.</p> <p>Preference is to stipulate substances to which the regulations apply as amendments could be made more easily and speedily in the Merchant Shipping Notice.</p> <p>Agreed</p> <p>Agreed</p> <p>A consultation for the forthcoming regulations implementing the EC directive on Sulphur Content of Marine Fuels will include an impact assessment. We welcome industry comment on the figures produced as part of that impact assessment. Further an impact assessment will be commissioned for the revised</p>
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			<p>Agree that Option 2 is the most appropriate way forward.</p>	<p>MARPOL Annex VI recently adopted at IMO's MEPC 58 which comes into force 1 July 2010.</p> <p>Noted</p>
5	Scottish Environment Protection Agency	12/08/08	<p>Welcome the proposed Regulations. Seek reassurance that shipping transfer activities will be adequately covered for control within both the draft Merchant Shipping (Ship to Ship Transfer) Regulations 2008 and the draft Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008, especially in relation to the potential release of volatile organic compounds from any such activities.</p> <p>Also note that draft Regulations do not consider Greenhouse Gas emissions.</p>	<p>The draft regulations implement the provisions for Volatile Organic Compounds under Regulation 15 of MARPOL Annex VI.</p> <p>Ship to ship transfer is to be considered under forthcoming regulations the draft of which will be subject to public consultation.</p> <p>Greenhouse Gases are still under discussion by IMO.</p>
6	British Chamber of Shipping	14/08/08	<p>Fully support the introduction into UK law of MARPOL VI.</p> <p>All other comments made in the Chamber of Shipping's submission mirror those made by Shell in their response (response No. 4).</p>	<p>Noted</p> <p>Noted. Please see responses to Shell (response no.4)</p>
7	Oil & Gas UK	15/08/08	<p>Seek clarification that they are correct in their understanding that all offshore installations are exempt from the Regulations.</p>	<p>Offshore installations do not have a general exemption from the UK regulations which</p>

			<p>On this assumption, Oil &amp; Gas UK suggest that necessary surveys carried out to confirm exemption are undertaken by BERR inspectors on behalf of MCA, during their routine visits.</p>	<p>implement MARPOL Annex VI. Regulation 6(1)(b) of MARPOL Annex VI requires an International Air Pollution Prevention Certificate be issued to platforms and drilling rigs. Regulation 19 of MARPOL Annex VI does identify specific exemptions for platforms and drilling rigs and these are reflected in the UK regulations.</p> <p>MCA and BERR have agreed that BERR inspectors will undertake inspections to establish compliance with MARPOL Annex VI. UK will delegate survey and certification to Certifying Authorities who will issue the IAPP or UKAPP as appropriate.</p>
8	International Bunker Industry Association	15/08/08	<p>Comment on Impact Assessment:  <b>Point 2.7:</b> Question the assertion made that 'marine diesel engines generally achieve around 30-35% thermal efficiency'.</p>	<p>A reference for the figures is provided in the Regulatory Impact Assessment.</p> <p>The figures quoted for thermal efficiency in the response shall be considered when developing future Impact Assessments.</p>

			<p>Comment on draft Statutory Instrument: <b>Part 2 Regulation 25(9)(a):</b> Note that no allowances for exemptions for any delivery method are included.</p> <p>Comments on draft MSN: <b>Appendix 1 Points 3.4 &amp; 6.1:</b> Express concern over arrangements specified for sampling bunker fuel and how this will be received throughout industry.</p>	<p>The UK Regulations implement the international requirements in MARPOL Annex VI.</p> <p>Guidelines for the sampling of fuel oil for determination of compliance with Annex VI of MARPOL 73/78 were adopted as IMO resolution 96(47) on 8 March 2002, and</p> <p>Administrations are required to take into account the IMO guidelines which strike a balance between the needs of the bunker fuel oil supply industry and the needs of the shipping industry, the latter requiring assurance that the fuel oil being supplied meets the international requirements.</p> <p>After the consideration of further evidence the option to sample at either the bunker supply vessel's bunker manifold or at the ship's bunker manifold is considered as enhancing that balance, in that</p>
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				it provides for the ship operator and the bunker fuel oil supplier to agree the most appropriate sampling location that meets the needs of both parties.
9	Royal Institute of Naval Architects	26/08/08	<p><u>Comments on the draft SI:</u>  <b>Part 1 (2) (Interpretation):</b>  Suggest a more robust definition for 'fuel oil'.</p> <p><b>Part 1 (3) (2) (Applications &amp; Exemptions):</b>  Unclear why Regs 5 to 11 dealing with surveys and certification issued by UK authority are intended to be applied to units (platforms) entitled to fly non-UK flag.</p> <p><b>Part 1 (3) (11) (b):</b> Seek clarification on application of regulations to non-UK ships operating in 'sulphur oxide emission control</p>	<p>Definition has been amended to that provided in MARPOL Annex VI Reg. 18.1 Unified Interpretation</p> <p>MARPOL Annex VI applies to platforms and drilling rigs and so the regulations have been drafted to ensure that non-UK platforms and drilling rigs operating in UK sector of the continental shelf comply with Annex VI survey and certification requirements.</p> <p>Schedule 8 of the Merchant Shipping Notice provides guidance on the survey and certification of platforms and drilling rigs.</p> <p>The Regulations do apply to ships that breach the Regulations outside UK waters</p>

		<p>area' outside UK waters.</p> <p><b>Part 2 (14) (1) :</b> Suggest deletion of last part of final sentence to be in line with IMO HSSC Protocol 1998</p> <p><b>Part 3 (20) (2):</b> Seek clarification on requirement for UK ships with regard to this paragraph.</p>	<p>so that the UK can prosecute if the ship comes into a UK port.</p> <p>SI 1996/282 enables regulations to be made relating to the protection and preservation of the marine environment from pollution from ships caused beyond the territorial sea of the United Kingdom, and as such extend the effect of regulations which apply to ships in the territorial sea of the United Kingdom to ships in other waters within which the United Kingdom may exercise jurisdiction over pollution from ships.</p> <p>Regulation 14(1) is subject to other provisions and together they implement Annex VI requirements on survey and certification with additional guidance provided in the MGN</p> <p>The draft MSN will be amended to reflect that ODS can continue to operate if installed prior to 19 May 2005. However,</p>
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			<p><b>Part 3 (24) (1):</b> Suggests that item 3 does not clearly indicate that non-UK ships have to comply with this regulation when within UK waters.</p> <p>Highlights a potential conflict with IMO resolution MEPC 76(40) that could over-burden ship operators.</p> <p><b>Part 3 (25):</b> Observation made that sulphur content limitations in paragraph (4) and (5) do not apply to ‘relevant ships’ (as defined in the draft SI), but regulations 14 and 18 of MARPOL Annex VI apply to all ships.</p>	<p>note comments above in response to Shell point regarding Schedule 1 of the MSN with respect to the “use” of ODS</p> <p>Regulation 3(1)(b) makes clear that non-UK ships have to comply with regulation 24 when within UK waters.</p> <p>Supplement to the UKAPP Certificate should refer to MSN 1734 and not IMO resolution MEPC 76(40). As MSN 1734 refers to MEPC 76(40) there is no increase in burden on ships.</p> <p>Regulation 5 and regulation 6 of MARPOL Annex VI require that ships of 400 gross tonnage and above are subject to survey and certification.</p> <p>MARPOL regulation 18(3) requires ships subject to MARPOL regulation 5 and 6 to carry a Bunker Delivery Note and so should apply to ships over 400GT only. Hence whilst UK Regulation 22 places a</p>
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				general requirement on all ships to comply with the sulphur content limitations, UK Regulation 25 on Fuel Oil Quality places specific requirements on ships over 400GT and platforms only.
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