

Summary: Intervention & Options

Department /Agency: Department for Transport	Title: Impact Assessment of Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities)(Amendment) Regulations	
Stage: FINAL	Version: 2	Date: 24 November 2008
Related Publications:		

Available to view or download at:

<http://www.dft.gov.uk/shipping>

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What is the problem under consideration? Why is government intervention necessary?

Addressing any polluting effect which ship-generated sewage may have on seas and coasts by making sure that port waste reception facilities for ship-generated sewage are available, easy to use and cost-effective without causing undue delay to ships.

What are the policy objectives and the intended effects?

Bringing additional requirements into UK law which will mean that vessels are required to deliver sewage to UK ports. Other types of ship-generated waste are already covered by Regulations made in 2003. The implementation of this requirement of Directive 2000/59/EC was delayed, under the terms of Article 16(1) of the Directive, until after the entry into force of Annex IV of the MARPOL Convention.

What policy options have been considered? Please justify any preferred option.

Do nothing is not considered to be an option. Failure to implement the Directive into national law would lead the European Commission to initiate infraction proceedings against the UK which would in turn lead to the UK being subject to a large fine for breaching community law.

Option taken forward - implement the Directive into UK law ensuring that it is consistent with International Law.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The UK is required to submit a status report to the Commission on the implementation of this Directive every 3 years. This was carried out in 2006 and the next review will be in 2009

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... Date:

Summary: Analysis & Evidence

Policy Option:	Description:
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition) Yrs	
	£ 0	
	Average Annual Cost (excluding one-off)	
	£ Negligible	Total Cost (PV) £ Negligible
<p>Other key non-monetised costs by 'main affected groups'</p> <p>There will be a minimal one-off cost associated with setting up a contract for sewage reception, on-going costs will also be very low.</p>		

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups'
	One-off Yrs	
	£ 0	
	Average Annual Benefit (excluding one-off)	
	£ Negligible	Total Benefit (PV) £ Negligible
<p>Other key non-monetised benefits by 'main affected groups'</p> <p>Environmental benefits of reduced pollution close to the coastline.</p>		

Key Assumptions/Sensitivities/Risks

Majority of ships will continue to discharge sewage at sea in accordance with the MARPOL convention. Smaller recreational vessels and fishing vessels which do not have to comply with MARPOL are unlikely to alter current practice for discharge of ship generated sewage.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?	UK wide			
On what date will the policy be implemented?	TBC			
Which organisation(s) will enforce the policy?	MCA			
What is the total annual cost of enforcement for these organisations?	£ Negligible			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	No			
What is the value of the proposed offsetting measure per year?	£ N/A			
What is the value of changes in greenhouse gas emissions?	£ N/A			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro 0	Small 0	Medium 0	Large 0
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)
Increase of £ 0	Decrease of £ 0	Net Impact £ 0

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Background

One way of reducing pollution of seas and coasts is to make sure that port waste reception facilities are available, easy-to-use and cost-effective without causing undue delay to ships.

If adequate port waste reception facilities were not available in the UK for vessels unable, or not required to comply with The International Regulations for the Prevention of Pollution by Ships (MARPOL), vessels might have no alternative but to discharge sewage at sea. Illegal discharges (eg. closer to the shore than 3 nautical miles) could result in fouling of UK beaches and estuaries. Not only is this aesthetically displeasing but untreated sewage can cause problems for wildlife and for the economy of the area, particularly if it is heavily reliant on tourism.

The EC Directive 2000/59 on port reception facilities for ship-generated waste and cargo residues was transposed into UK legislation in the Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003. These Regulations took the form of requirements for ships to provide notification, prior to their entry into port, of the waste which they intend to discharge (including information about types and quantities); for ships to deliver their waste to port waste reception facilities before leaving port; and for a mandatory fee to be collected from ships in respect of the costs of port reception facilities for ship-generated waste. However, under the terms of Article 16(1) of the Directive the requirement to deliver sewage was delayed until MARPOL Annex IV had entered into force. MARPOL Annex IV details how and where ship generated sewage may be legally discharged at sea.

Annex IV has now entered into force and therefore we are now required to amend the 2003 Regulations to cover sewage. Under this legislation vessels will be required to deliver sewage as well as the other ship-generated waste already covered in the 2003 Regulations. The requirement to deliver sewage only applies if it cannot be legally discharged at sea according to MARPOL annex IV. For ships already compliant with MARPOL, sewage reception facilities at ports will represent an alternative to legal discharge of sewage at sea. There are also some minor changes, and some consequential implications for monitoring and enforcement by the Maritime and Coastguard Agency.

Failure to implement the remaining requirements of the port reception facilities Directive to include sewage would result in infraction proceedings against the UK, and the UK being taken before the European Court of Justice.

Options

Doing nothing is not considered to be an option in this case. This would mean continuing to apply the UK's existing Regulations, which apply to all UK harbour authorities or terminal operators. Each UK harbour authority or terminal operator must provide port waste reception facilities adequate to meet the needs of ships normally using the harbour or terminal in question without causing undue delay to ships. Adequate facilities means facilities capable of receiving the types and quantities of prescribed wastes from ships normally using that harbour or terminal taking into account: the operational need of the users of the harbour or terminal, its size, its geographical location, the types of ships calling there and any exemptions provided for under the port waste regulations.

The UK is required to transpose Directive 2000/59/EC into national law, in such a way as to extend the existing legislation to cover sewage. Failure to do so would lead the European

Commission to initiate infraction proceedings against the UK, which would - in turn - lead to the UK being ruled to be in breach of Community law by the European Court of Justice. Persistent failure to implement Community law could ultimately result in a substantial fine (and a significant degree of public opprobrium).

Amend UK law to implement the requirements of the EC port waste reception facilities Directive in such a way as to extend it to cover sewage

Under the amended Regulations (*The Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003, as amended*) harbour authorities and terminal operators will be required to ensure the provision of facilities at ports and terminals for the reception of ship-generated waste, without causing delay to ships, meeting the needs of all users, from the largest merchant ship to the smallest recreational craft.

Ships will be required (in addition to their obligations under the existing regime) to deliver their ship-generated sewage to the reception facilities, except:

- When the Master proposes to deliver the sewage at a future port of call, and the ship has sufficient dedicated storage capacity for the sewage which has accumulated and will accumulate en route to the intended port of delivery, or
- When the Master intends to discharge sewage at sea in accordance with MARPOL

Ships (other than fishing vessels, and recreational craft authorised or designed to carry no more than 12 passengers) are already expected to pay the charge imposed by the Harbour Authority (or the terminal operator) under the Regulations, which is a charge levied irrespective of actual use of the port waste facilities, which may include an element to cover the cost of ensuring the provision of reception facilities for ship-generated sewage.

There is no obligation for the Master of a fishing vessel, or of a recreational craft authorised or designed to carry no more than 12 passengers, to notify before they come into port, or pay the irrespective of use charge, but they will be expected to pay on a commercial basis for the ship-generated sewage they deliver to that facility.

Scope of the legislation

We anticipate that for most vessels there will be little change to their operating procedures and disposal of ship generated sewage. Larger vessels will continue to treat and discharge their sewage at sea in accordance with Annex IV of MARPOL. Vessels which do not have to comply with Annex IV are likely to discharge their sewage into the sea unless they use holding tanks in which case they may deliver their sewage to a port but they are not required to. There is no obligation in this legislation to either fit holding tanks or to utilise them if they are already fitted.

The Ports industry have indicated to us that if there is no requirement for large quantities of ship-generated sewage to be delivered to the port, they will probably use contractors rather than building their own sewage treatment facility. So there will be limited additional costs to ports of implementing this legislation, mostly associated with potentially having to set up a contract. For this reason, we do not anticipate that ports will need to increase the irrespective of use charge to cover sewage reception costs.

The types of vessels which are most likely to see an impact from these Regulations are small recreational vessels (those designed to carry no more than 12 people) and fishing vessels, which have holding tanks. Operators of these vessels will be able to deliver sewage stored in their holding tanks to a port and will have to pay on a commercial basis for these services. However, the Directive does not require holding tanks to be fitted to such vessels if they are not already fitted and we only expect a limited number of such vessels to deliver their sewage to the port. Furthermore, there is no requirement for these smaller vessels to use existing holding tanks.

Costs and Benefits

Costs and benefits of this legislation are limited as we expect operators to continue with their existing practices for the disposal of ship-generated sewage. However, we have identified below where limited costs and benefits may occur as a result of this amendment to the 2003 Regulations.

Costs are expected to be minimal. Operators already have to pay an irrespective of use charge to use port waste facilities and including sewage in the Regulations is unlikely to alter this charge. Most ships are expected to continue to discharge their sewage at sea in accordance with MARPOL. Operators of recreational vessels designed to carry no more than 12 people and who are not obliged to pay the irrespective of use charge will pay on a commercial basis for ship-generated sewage which they deliver (although we expect there to be limited demand from operators of recreational vessels for commercial services to deliver sewage to port) - this cost is expected to be minimal and is not a legal requirement of the current legislation.

Benefits of providing adequate facilities at ports to deliver ship-generated sewage are that it will help to address any polluting effect which that sewage may have on seas. However, as described above it is expected that very few ships will make use of the sewage reception facilities, and benefits to the environment will be correspondingly small.

Impacts

We do not consider there to be an impact on competition, and therefore a competition assessment is not included in the impact assessment.

Small Firms

Companies with fewer than 50 employees are considered small firms. Owners who are small firms are likely to be primarily owners of fishing or small passenger vessels (designed to carry no more than 12 people), but as discussed above these will not be required to make use of the port waste reception facilities unless they choose to use sewage holding tanks.

Many ports around the UK also employ fewer than 50 people. These ports will be required as a minimum to set up a contract for sewage reception in the same way as larger ports, with a proportionally greater impact on the smaller ports. However, the types of ships regularly received at these small ports are quite different from those at the major ports, and cheaper contracts capable of providing "adequate facilities" as described in the Options section, will be available.

It is not considered that these Regulations have a disproportionate effect on small firms.

Early Implementation of Directive 2007/71/EC - Notification form

To take account of the entry into force of MARPOL Annex IV, the notification form at Annex II of Directive 2000/59/EC has been updated to include sewage. The notification form is one which Masters must fill in to indicate how much waste they intend to deliver to the destination port.

This amendment was achieved through the European Community comitology process and has been promulgated through Directive 2007/71/EC.

This amending Directive 2007/71 is in the consultation paper at annex D. The notification form now includes a box to complete if Masters wish to deliver sewage to the port reception facilities. However, the form also indicates that as sewage can legally be discharged at sea there is no requirement for the information to be completed unless the sewage is to be delivered to the port's reception facilities.

Directive 2007/71 has a transposition date of 15 June 2009. There is a good reason for early transposition in this case, as it will provide helpful clarification for the industry (ie that discharges in accordance with MARPOL are permissible) and will not result in costs to the industry beyond placing an additional tick in a box on a form that Masters already fill in . Implementing this Directive 2000/59/EC will also avoid the need to engage the industry in a further consultation exercise next year.

Consultation

A consultation exercise was held in 2005 to seek views from the industry and other stakeholders as to how the 2000 Directive should be implemented. A further consultation exercise was carried out in 2008, following the publication of Commission Directive 2007/71/EC, (“the 2007 Directive”), which made a significant amendment to the 2000 Directive.

Approximately 60 stakeholders and interested parties were sent the consultation paper in 2008 about the draft Regulations. These included representatives of the Shipping and Ports Industry, Harbour Authorities, Environmental Groups and Other Government Departments. The consultation period was 6 weeks (i.e. a shorter period than the usual 12 weeks, and this was in view of very limited nature of the amendments made to the initial draft Regulations) but was carried out in accordance with the Cabinet Office’s code of practice on consultation.

Nine responses were received to this consultation exercise. Consultees generally agreed with the changes to the Regulations and appreciated the clarity that the draft Regulations had achieved. However, concerns were raised that there would be a disproportionate effect on operators of small recreational craft which are authorised or designed to carry no more than 12 persons and that the Regulations may in practice discourage operators of these craft from delivering sewage to reception facilities in ports.

The Department has taken account of these responses. In particular, in the requirements for delivering ship-generated sewage to reception facilities, the Department has taken account of the fact that the Directive provides for ships to discharge their sewage in accordance with MARPOL, *and* for ships not to have to notify harbour authorities of this waste. So the draft Regulations allow not only for large ships which are subject to MARPOL to discharge their sewage in accordance with that Convention, but also for fishing vessels and small vessels (which are not subject to MARPOL) to do the same. However, there are voluntary regimes in place which encourage operators of smaller vessels to deliver their sewage to harbours and terminals.

Administrative Burdens

There will be a requirement for Masters to complete a notification form if they intend to deliver sewage to a port. However, sewage has been added to the existing form for notifying intention to deliver ship-generated waste and therefore it is not considered to be an additional burden.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	No
Small Firms Impact Test	No	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	Yes	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	No	No

