



LP Bulletin

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Bulletin 735 - 01/11 - Prevention and Control of Marine Pollution - Shanghai

The Shanghai MSA published on 20th September, 2010 interim measures on prevention and control of marine environment pollution caused by collection of ships pollutants operations (hereafter "the Rules). The Rules came into force on 1st January, 2011. The Rules are one of the several supplementary regulations which the MSAs in China are expected to publish in 2011 under the framework of the PRC Regulations on the Prevention and Control of Marine Pollution from Ships which was implemented on 1st March 2010.

The Rules prohibit the carrying out of certain operations concerning transfer of pollutants from ships while the vessel is within the jurisdiction of the Shanghai MSA without the MSA's approval. The operations prohibited by the Rules include: tank cleaning operations as well as collection and disposal of residue oil, oily water, water that contains toxic and harmful substances, garbage, sewage and exhaust gas ("Regulated Operations"). Under the Rules, the Shanghai MSA will set out a list of service providers which are approved by the Shanghai MSA to perform each of the Regulated Operations for shipowners and operators.

Owners/operators of ships which intend to carry out Regulated Operations in Shanghai are required to sign an agreement with a service provider to perform such services. The Rules have made no reference to any model Agreement but simply require that an "effective agreement for collection of pollutants needs to be signed". A copy of the Agreement together with other relevant documentation will need to be filed together with the application for approval to carry out the Regulated Operations. The service provider will need to make an application within the following time frames depending on the type of Regulated Operations in question:

- (1) Application is made 12 hours before commencing operation for engaging in collecting residue oil, oily water, water containing toxic and harmful substances;
- (2) Declaration is made 2 hours before commencing operation for engaging in collecting garbage from the vessel.

If the Regulated Operations are to be carried out at the anchorage, a qualified evaluation institution should be retained beforehand to assess the operation plans and pollution risks which are required to be filed with and the operation shall be approved by the competent authority before commencing operation.

For ships that visit the port of Shanghai for the purposes of carrying out repair and maintenance work or for dismantling at a shipyard, the shipyard shall, on behalf of the shipowner/operator make the required application to the Shanghai MSA as mentioned above.

On completion of the Regulated Operations, the relevant service provider will record the operation in a record book and issue the receipt of ship pollutant collection to the Master of the vessel for signature and confirmation. The related record books and the receipts will need to be filed with the MSA who will issue a certificate of pollutants collection to the shipowner/operator.

Records of Regulated Operations shall be kept for a minimum period (depending on the type of Regulated Operations in question) as follows:

(1) The completed record book for garbage from vessel shall be kept for 2 years on board the vessel;

(2) The completed record book for oily water and water containing toxic and harmful substances shall be kept for 3 years on board the vessel;

(3) The vessel for water pollutants collection or collection units for ashore pollutants shall have kept the related record books and documents of pollutant collection operation for 2 years.

We understand that a list of approved service providers has not been published despite the fact that the Rules have already come into force on 1st January 2011. Article 22 of the Rules however provides that if the service provider is contracted to carry out the Regulated Operations has not obtained the MSA's approval to perform the work, an application will need to be made 24 hours before commencing the operation.

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