

PORT STATE CONTROL COMMITTEE INSTRUCTION 44/2011/20

Procedure for Investigation under MARPOL

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Section 1 Procedures for discharge requirements under Annexes I and II to MARPOL

- 1.1** Acting upon a report or notification of an alleged violation of the discharge requirements under Annexes I and II to MARPOL, the port State control officer will be guided by the procedures set out in sections 2 and 3 of this Annex with regard to investigations into alleged contravention of the discharge provisions of Annex I to MARPOL and in sections 4 and 5 of this Annex with regard to investigations into alleged contravention of the discharge provisions of Annex II to MARPOL.
- 1.2** When exercising control on alleged violations of the discharge requirements under Annexes I and II to MARPOL, the port State control officer will give due regard to the provisions of 3.4.1 to 3.4.13 of IMO Resolution A.787(19) as amended by Resolution A.882(21), and to the instructions of the port State Administration based on these provisions.
- 1.3** In the event that his investigation reveals deficiencies, which are clearly hazardous to safety, health or the environment, the port State control officer will apply the provisions of 3.4 of the Memorandum.

Section 2 Contravention of discharge provisions under Annex I to MARPOL

- 2.1** The provisions of sections 2 and 3 are intended to identify information which is often needed by a flag State Administration for the prosecution of such possible violations.
- 2.2** It is recommended that in preparing a port State report on deficiencies, where contravention of the discharge requirements is involved, the authorities of the coastal or port State be guided by the itemized list of possible evidence as shown in section 3. It must be borne in mind in this connection that:
- .1 the report aims to provide the optimal collation of obtainable data; however, even if all the information cannot be provided, as much information as possible must be submitted;
 - .2 it is important for all the information included in the report to be supported by facts which, when considered as a whole, would lead the port or coastal State to believe a contravention had occurred.
- 2.3** In addition to the port State report on deficiencies, a report must be completed by a port or coastal State, on the basis of the itemized list of possible evidence. It is important that these reports are supplemented by documents such as:
- .1 a statement by the observer of the pollution. In addition to the information required in 3.1, the statement must include considerations which lead the observer to conclude that none of any other possible pollution sources is in fact the source;
 - .2 statements concerning the sampling procedures both of the slick and on board. These must include location of and time when samples were taken, identity of person(s) taking the samples and receipts identifying the persons having custody and receiving transfer of the samples;
 - .3 reports of analyses of samples taken of the slick and on board; the reports must include the results of the analyses, a description of the method employed, reference to or copies of scientific documentation attesting to the accuracy and validity of the method employed and names of persons performing the analyses and their experience;
 - .4 a statement by the port State control officer on board together with the port State control officer's rank and organization;
 - .5 statements by persons being questioned;
 - .6 statements by witnesses;
 - .7 photographs of the oil slick;
 - .8 copies of relevant pages of Oil Record Books, log books, discharge recordings,

etc.

All observations, photographs and documentation must be supported by a signed verification of their authenticity. All certifications, authentications or verifications shall be executed in accordance with the laws of the State which prepares them. All statements must be signed and dated by the person making the statement and, if possible, by a witness to the signing. The names of the persons signing statements must be printed in legible script above or below the signature.

- 2.4** The report referred to in 2.2 and 2.3 must be sent to the flag State Administration. If the coastal State observing the pollution and the port State carrying out the investigation on board are not the same, the State carrying out the latter investigation must also send a copy of its findings to the State observing the pollution and requesting the investigation.

Section 3 Itemized list of possible evidence on alleged contravention of the discharge provisions of Annex I to MARPOL

3.1 Action on sighting oil pollution

3.1.1 Particulars of ship or ships suspected of contravention

- .1 Name of ship
- .2 Reasons for suspecting the ship
- .3 Date and time (UTC) of observation or identification
- .4 Position of ship
- .5 Flag and port of registry
- .6 Type (e.g. tanker, cargo ship, passenger ship, fishing vessel), size (estimated tonnage) and other descriptive data (e.g. superstructure colour and funnel mark)
- .7 Draught condition (loaded or in ballast)
- .8 Approximate course and speed
- .9 Position of slick in relation to ship (e.g. astern, port, starboard)
- .10 Part of the ship from which side discharge was seen emanating
- .11 Whether discharge ceased when ship was observed or contacted by radio

3.1.2 Particulars of slick

- .1 Date and time (UTC) of observation if different from 3.1.1.3
- .2 Position of oil slick in longitude and latitude if different from 3.1.1.4
- .3 Approximate distance in nautical miles from the nearest landmark
- .4 Approximate overall dimension of oil slick (length, width and percentage thereof covered by oil)
- .5 Physical description of oil slick (direction and form e.g. continuous, in patches or in windrows)
- .6 Appearance of oil slick (indicate categories)
 - .1 Category A: Barely visible under most favourable light condition
 - .2 Category B: Visible as silvery sheen on water surface
 - .3 Category C: First trace of colour may be observed
 - .4 Category D: Bright band of colour
 - .5 Category E: Colours begin to turn dull
 - .6 Category F: Colours are much darker
- .7 Sky conditions (bright sunshine, overcast, etc.), light fall and visibility (kilometres) at the time of observation
- .8 Sea state
- .9 Direction and speed of surface wind
- .10 Direction and speed of current

3.1.3 Identification of the observer(s)

- .1 Name of the observer
- .2 Organization with which observer is affiliated (if any)
- .3 Observer's status within the organization
- .4 Observation made from aircraft/ship/shore/otherwise
- .5 Name or identity of ship or aircraft from which the observation was made
- .6 Specific location of ship, aircraft, place on shore or otherwise from which observation was made
- .7 Activity engaged in by observer when observation was made, for example: patrol, voyage, flight (en route from to), etc.

3.1.4 Method of observation and documentation

- .1 Visual
- .2 Conventional photographs
- .3 Remote sensing records and/or remote sensing photographs
- .4 Samples taken from slick
- .5 Any other form of observation (specify)

Note: A photograph of the discharge must preferably be in colour. Photographs can provide the following information: that a material on the sea surface is oil; that the quantity of oil discharged does constitute a violation of the Convention; that the oil is being, or has been discharged from a particular ship; and the identity of the ship.

Experience has shown that the aforementioned can be obtained with the following three photographs:

- .1 details of the slick taken almost vertically down from an altitude of less than 300 metres with the sun behind the photographer;
- .2 an overall view of the ship and "slick" showing oil emanating from a particular ship; and
- .3 details of the ship for the purposes of identification.

3.1.5 Other information if radio contact can be established

- .1 Master informed of pollution
- .2 Explanation of master
- .3 Ship's last port of call
- .4 Ship's next port of call
- .5 Name of ship's master and owner
- .6 Ship's call sign

3.2 Investigation on board

3.2.1 Inspection of IOPP Certificate

- .1 Name of ship
- .2 Distinctive number or letters
- .3 Port of registry
- .4 Type of ship
- .5 Date and place of issue
- .6 Date and place of endorsement

Note: If the ship is not issued an IOPP Certificate, as much as possible of the requested information must be given.

3.2.2 Inspection of supplement to the IOPP Certificate

- .1 Applicable paragraphs of sections 2, 3, 4, 5 and 6 of the supplement to the IOPP Certificate (non-oil tankers)
- .2 Applicable paragraphs of sections 2, 3, 4, 5, 6, 7, 8, 9 and 10 of the supplement to the IOPP Certificate (oil tankers)

Note: If the ship does not have an IOPP Certificate, a description must be given of the equipment and arrangements on board, designed to prevent marine pollution.

3.2.3 Inspection of Oil Record Book

- .1 Sufficient pages of the Oil Record Book - Part I must be copied to cover a period of 30 days prior to the reported incident
- .2 Sufficient pages of the Oil Record Book - Part II (if on board) must be copied to cover a full loading/unloading/ballasting and tank cleaning cycle of the ship. A copy of the tank diagram must also be taken.

3.2.4 Inspection of log book

- .1 Last port, date of departure, draught forward and aft
- .2 Current port, date of arrival, draught forward and aft
- .3 Ship's position at or near the time the incident was reported
- .4 Spot check if positions mentioned in the log book agree with positions noted in the Oil Record Book.

3.2.5 Inspection of other documentation on board

Other documentation relevant for evidence (if necessary make copies) such as:

- .1 recent ullage sheets
- .2 records of monitoring and control equipment
- .3 Certificate of Quality for cargo
- .4 bunker oil and/or lubricating oil delivery notes
- .5 bunker sample analysis
- .6 Material Safety Data Sheet (MSDS)
- .7 receipt of sludge and oily water delivery ashore

3.2.6 Inspection of ship

- .1 Ship's equipment in accordance with the supplement of the IOPP Certificate
- .2 Samples taken. State location on board
- .3 Traces of oil in vicinity of overboard discharge outlets
- .4 Condition of engine-room and contents of bilges
- .5 Condition of oily water separator, filtering equipment and alarm, stopping or monitoring arrangements
- .6 Contents of sludge and/or holding tanks
- .7 Sources of considerable leakage

On oil tankers the following additional evidence may be pertinent:

- .8 Oil on surface of segregated or dedicated clean ballast
- .9 Condition of pump-room bilges
- .10 Condition of crude oil washing system
- .11 Condition of inert gas system
- .12 Condition of monitoring and control system
- .13 Slop tank contents (estimate quantity of water and of oil)

3.2.7 Statements of persons concerned

If Part I of the Oil Record Book has not been properly completed, information on the following questions may be pertinent:

- .1 Was there a discharge (accidental or intentional) at the time indicated on the incident report?
- .2 Is the bilge discharge controlled automatically?
- .3 If so, at what time was this system last put into operation and at what time was this system last put on manual mode?
- .4 If not, what were date and time of the last bilge discharge?
- .5 What was the date of the last disposal of residue and how was disposal effected?
- .6 Is it usual to effect discharge of bilge water directly to the sea, or to store bilge water first in a collecting tank? Identify the collecting tank
- .7 Have oil fuel tanks recently been used as ballast tanks?

If Part II of the Oil Record Book has not been properly completed, information on the following questions may be pertinent:

- .8 What was the cargo/ballast distribution in the ship on departure from the last port?
- .9 What was the cargo/ballast distribution in the ship on arrival in the current port?
- .10 When and where was the last loading effected?
- .11 When and where was the last unloading effected?
- .12 When and where was the last discharge of dirty ballast?
- .13 When and where was the last cleaning of cargo tanks?
- .14 When and where was the last crude oil washing operation and which tanks were washed?
- .15 When and where was the last decanting of slop tanks?
- .16 What is the ullage in the slop tanks and the corresponding height of interface?
- .17 Which tanks contained the dirty ballast during the ballast voyage (if ship arrived in ballast)?
- .18 Which tanks contained the clean ballast during the ballast voyage (if ship arrived in ballast)?

In addition the following information may be pertinent:

- .19 Details of the present voyage of the ship (previous ports, next ports, trade)
- .20 Contents of oil fuel and ballast tanks
- .21 Previous and next bunkering, type of oil fuel
- .22 Availability or non-availability of reception facilities for oily wastes during the present voyage
- .23 Internal transfer of oil fuel during the present voyage

In the case of oil tankers the following additional information may be pertinent:

- .24 The trade the ship is engaged in, such as short/long distance, crude or product or alternating crude/product, lightering service, oil/dry bulk
- .25 Which tanks clean and dirty
- .26 Repairs carried out or envisaged in cargo tanks

Miscellaneous information:

- .27 Comments in respect of condition of ship's equipment
- .28 Comments in respect of pollution report
- .29 Other comments

3.3 Investigation ashore

3.3.1 Analyses of oil samples

Indicate method and results of the samples' analyses

3.3.2 Further information

Additional information on the ship, obtained from oil terminal staff, tank cleaning contractors or shore reception facilities may be pertinent.

Note: Any information under this heading is, if practicable, to be corroborated by documentation such as signed statements, invoices, receipts, etc.

3.4 Information not covered by the foregoing

3.5 Conclusion

3.5.1 Summing up of the investigator's technical conclusions

3.5.2 Indication of applicable provisions of Annex I of MARPOL which the ship is suspected of having contravened.

3.5.3 Did the results of the investigation warrant the filing of a deficiency report?

Section 4 Contravention of discharge provisions under Annex II to MARPOL

4.1 The provisions of sections 4 and 5 are intended to identify information which will be needed by a flag State Administration for the prosecution of violations of the discharge provisions under Annex II to MARPOL.

4.2 It is recommended that in preparing a port State report on deficiencies, where contravention of the discharge requirements is involved, the authorities of a coastal or port State will be guided by the itemized list of possible evidence as shown in section 5. It must be borne in mind in this connection that:

- .1 the report aims to provide the optimal collation of obtainable data; however, even if all the information cannot be provided, as much information as possible must be submitted; and
- .2 it is important for all the information included in the report to be supported by facts which, when considered as a whole, would lead the port or coastal State to believe a contravention has occurred; and
- .3 the discharge may have been oil, in which case annex 2 to appendix II of Annex I to MARPOL Control Procedures applies.

4.3 In addition to the port State report on deficiencies, a report must be completed by a port or coastal State, on the basis of the itemized list of possible evidence. It is important that these reports are supplemented by documents such as:

- .1 a statement by the observer of the pollution. In addition to the information required in 5.1, the statement must include considerations which have led the observer to conclude that none of any other possible pollution sources is in fact the source;
- .2 statements concerning the sampling procedures both of the slick and on board. These include location of and time when samples were taken, identity of person(s) taking the samples and receipts identifying the persons having custody and receiving transfer of the samples;
- .3 reports of analyses of samples taken of the slick and on board; the reports must include the results of the analyses, a description of the method employed, reference to or copies of scientific documentation attesting to the accuracy and validity of the method employed and names of persons performing the analyses and their experience;
- .4 a statement by the port State control officer on board together with the port State control officer's rank and organization;
- .5 statements by persons being questioned;
- .6 statements by witnesses;

- .7 photographs of the slick; and
- .8 copies of relevant pages of the Cargo Record Book, log books, discharge recordings, etc.

All observations, photographs and documentation must be supported by a signed verification of their authenticity. All certifications, authentications or verifications shall be executed in accordance with the laws of the State which prepares them. All statements must be signed and dated by the person making the statement and, if possible, by a witness to the signing. The names of the persons signing statements must be printed in legible script above or below the signature.

- 4.4** The report referred to in 4.2 and 4.3 must be sent to the flag State Administration. If the coastal State observing the pollution and the port State carrying out the investigation on board are not the same, the State carrying out the latter investigation must also send a copy of its findings to the State observing the pollution and requesting the investigation.

Section 5 Itemized list of possible evidence on alleged contravention of the discharge provisions of Annex II to MARPOL

5.1 Action on sighting pollution

5.1.1 Particulars of ship or ships suspected of contravention

- .1 Name of ship
- .2 Reasons for suspecting the ship
- .3 Date and time (UTC) of observation or identification
- .4 Position of ship
- .5 Flag and port of registry
- .6 Type, size (estimated tonnage) and other descriptive data (e.g. superstructure, colour and funnel mark)
- .7 Draught condition (loaded or in ballast)
- .8 Approximate course and speed
- .9 Position of slick in relating to ship (e.g. astern, port, starboard)
- .10 Part of the ship from which discharge was seen emanating
- .11 Whether discharge ceased when ship was observed or contacted by radio

5.1.2 Particulars of slick

- .1 Date and time (UTC) of observation if different from 5.1.1.3
- .2 Position of slick in longitude and latitude if different from 5.1.1.4
- .3 Approximate distance in nautical miles from the nearest land
- .4 Depth of water according to sea chart
- .5 Approximate overall dimension of slick (length, width and percentage thereof covered)
- .6 Physical description of slick (direction and form, e.g. continuous, in patches or in windrows)
- .7 Colour of slick
- .8 Sky conditions (bright sunshine, overcast, etc.), light fall and visibility (kms) at the time of observation
- .9 Sea state
- .10 Direction and speed of surface wind
- .11 Direction and speed of current

5.1.3 Identification of the observer(s)

- .1 Name of the observer
- .2 Organization with which observer is affiliated (if any)
- .3 Observer's status within the organization

- .4 Observation made from aircraft (ship) (shore) or otherwise
- .5 Name or identity of ship or aircraft from which the observation was made
- .6 Specific location of ship, aircraft, place on shore or otherwise from which observation was made
- .7 Activity engaged in by observer when observation was made, for example: patrol, voyage, flight (en route from ... to ...), etc.

5.1.4 Method of observation and documentation

- .1 Visual
- .2 Conventional photographs
- .3 Remote sensing records and/or remote sensing photographs
- .4 Samples taken from slick
- .5 Any other form of observation (specify)

Note: A photograph of the discharge must preferably be in colour. The best results may be obtained with the following three photographs:

- .1 details of the slick taken almost vertically down from an altitude of less than 300 metres with the sun behind the photographer;
- .2 an overall view of the ship and "slick" showing a substance emanating from the particular ship; and
- .3 details of the ship for the purposes of identification.

5.1.5 Other information if radio contact can be established

- .1 Master informed of pollution
- .2 Explanation of master
- .3 Ship's last port of call
- .4 Ship's next port of call
- .5 Name of ship's master and owner
- .6 Ship's call sign

5.2 Investigation on board

5.2.1 Inspection of the certificate (CoF or NLS Certificate)

- .1 Name of ship
- .2 Distinctive number or letters
- .3 Port of registry
- .4 Type of ship
- .5 Date and place of issue
- .6 Date and place of endorsement

5.2.2 Inspection of P and A Manual

- .1 List of Annex II substances the ship is permitted to carry
- .2 Limitations as to tanks in which these substances may be carried
- .3 Ship equipped with an efficient stripping system
- .4 Residue quantities established at survey

5.2.3 Inspection of Cargo Record Book

Sufficient pages of the Cargo Record Book should be copied to cover a full loading/unloading/ ballasting and tank cleaning cycle of the ship. A copy of the tank diagram should also be taken.

5.2.4 Inspection of log book

- .1 Last port, date of departure, draught forward and aft
- .2 Current port, date of arrival, draught forward and aft
- .3 Ship's position at or near the time the incident was reported
- .4 Spot check if times entered in the Cargo Record Book in respect of discharges correspond with sufficient distance from the nearest land, the required ship's speed and with sufficient water depth

5.2.5 Inspection of other documentation on board

Other documentation relevant for evidence (if necessary make copies) such as:

- .1 cargo documents of cargo presently or recently carried, together with relevant information on required unloading temperature, viscosity and/or melting point
- .2 records of temperature of substances during unloading
- .3 records of monitoring equipment if fitted

5.2.6 Inspection of ship

- .1 Ship's equipment in accordance with the P and A Manual
- .2 Samples taken; state location on board
- .3 Sources of considerable leakage
- .4 Cargo residues on surface of segregated or dedicated clean ballast
- .5 Condition of pump room bilges
- .6 Condition of monitoring system
- .7 Slop tank contents (estimate quantity of water and residues)

5.2.7 Statements of persons concerned

If the Cargo Record Book has not been properly completed, information on the following questions may be pertinent:

- .1 Was there a discharge (accidental or intentional) at the time indicated on the incident report?
- .2 Which tanks are going to be loaded in the port?
- .3 Which tanks needed cleaning at sea? Had the tanks been prewashed?
- .4 When and where were these cleaned?
- .5 Residues of which substances were involved?
- .6 What was done with the tank washing slops?
- .7 Was the slop tank, or cargo tank used as a slop tank, discharged at sea?
- .8 When and where was the discharge effected?
- .9 What are the contents of the slop tank or cargo tank used as slop tank?
- .10 Which tanks contained the dirty ballast during the ballast voyage (if ship arrived in ballast)?
- .11 Which tanks contained the clean ballast during the ballast voyage (if ship arrived in ballast)?
- .12 Details of the present voyage of the ship (previous ports, next ports, trade)
- .13 Difficulties experienced with discharge to shore reception facilities
- .14 Difficulties experienced with efficient stripping operations
- .15 Which tanks are clean or dirty on arrival?
- .16 Repairs carried out or envisaged in cargo tanks

Miscellaneous information

- .17 Comments in respect of condition of ship's equipment
- .18 Comments in respect of pollution report
- .19 Other comments.

5.3 Investigation ashore

5.3.1 Analyses of samples

Indicate method and results of the samples' analyses

5.3.2 Further information

Additional information on the ship, obtained from terminal staff, tank cleaning contractors or shore reception facilities may be pertinent

Note: Any information under this heading is, if practicable, to be corroborated by documentation such as signed statements, invoices, receipts, etc.

5.3.3 Information from previous unloading port terminal

- .1 Confirmation that the ship unloaded, stripped or prewashed in accordance with its P and A Manual
- .2 The nature of difficulties if any
- .3 Restrictions by authorities under which the ship was permitted to sail
- .4 Restrictions in respect of shore reception facilities

5.4 Information not covered by the foregoing

5.5 Conclusion

- .1 Summing up of the investigator's conclusions
- .2 Indication of applicable provisions of Annex II to MARPOL which the ship is suspected of having contravened
- .3 Did the results of the investigation warrant the filing of a deficiency report?