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Amendments to the Environmental Safety Regulations to implement resolutions MEPC.359(79), MEPC.360(79), MEPC.361(79) and MEPC.362(79) in Norwegian law, and on an exemption from the Garbage Record Book requirement for mobile offshore units

Introduction

The Norwegian Maritime Authority (NMA) has laid down amendments to the Regulations of 30 May 2012 No. 488 on environmental safety for ships and mobile offshore units (Environmental Safety Regulations).

The amendments to the Environmental Safety Regulations implement in Norwegian legislation the amendments to MARPOL Annexes I, II, IV, V and VI set out in resolutions MEPC.359(79), MEPC.360(79), MEPC.361(79) and MEPC.362(79). These resolutions will enter into force on 1 May 2024.

Additionally, to facilitate the implementation of the exemption outlined in MARPOL regulation V/10.4.2, an amendment to section 11 of the Environmental Safety Regulations has been laid down.

Consultation

The proposed amendments to the Environmental Safety Regulations were circulated for review in the period from 24 January to 23 April 2024. The NMA received a total of nine consultative statements, whereof five included comments on the proposal. The Norwegian Fishermen's Association, the Norwegian Fishing Vessel Owners Association (Fiskebåt), the Norwegian Bar Association and the Norwegian Union of Marine Engineers made comments on the proposed amendments. The NMA has reviewed these comments.

The Norwegian Fishermen's Association and Fiskebåt believe that legislation regarding waste sorting on board ships must align with the availability of waste disposal facilities at ports. They highlight significant deficiencies in disposal facilities at most ports and note that the amendments to the Directive on port reception facilities for the delivery of waste from ships, implemented in the Environmental Safety Regulations effective from 1 October 2023, have only been enacted to a limited extent. Additionally, both organisations request a 6-month postponement of the requirement for ships of 100 gross tonnage and upwards to maintain a Garbage Record Book, to allow the industry time to adapt. The Norwegian Fishermen's Association also suggested that the Garbage Record Book should have a simple format and be easy and quick to maintain.

The Norwegian Maritime Authority is responsible for legislation regarding waste management on board ships in accordance with the Ship Safety and Security Act and its appurtenant regulations. We do not have authority over port reception facilities. Comments from the Norwegian Fishermen's Association and Fiskebåt regarding reception facilities will be forwarded to the Norwegian Environment Agency, which has overall responsibility for the provisions of the Environmental Safety Regulations on the delivery and reception of waste from ships. The format of the Garbage Record Book is specified in applicable rules in MARPOL. No amendments to the format of the Garbage Record Book have been adopted, but the scope of MARPOL regulation V/10.3 has been extended to apply to ships of 100 gross tonnage and upwards. Regarding the comment that the industry must have a transitional period to be able to adapt to the new rules, there is no legal basis for this in MARPOL Annex V (see resolution MEPC.360(79)). The amendments were adopted by the IMO on 16 December 2022, and the NMA assumes that the industry has had

reasonable time to prepare for the amendments. It should also be noted that the amendments to MARPOL regulation V/10.3 may be subject to port State controls from 1 May 2024.

The Norwegian Bar Association commented that MARPOL regulation I/38.4 refers to paragraphs "1 to 3", while the NMA's interpretation of MEPC.359(79), which was attached to the circulated proposal, referred to paragraphs "1 and 3". The Norwegian Maritime Authority takes this comment into account and will correct the wording when consolidating the amendments in our interpretation of MARPOL Annex I.

The Norwegian Union of Marine Engineers (NUME) expressed concern that the Norwegian Maritime Authority introduces an exemption from the Garbage Record Book requirement for mobile offshore units engaged in petroleum activities on the Norwegian continental shelf if they have a system for logging onboard garbage management. NUME reminded us of Norway's environmental obligations under the Convention on the Law of the Sea and suggested that a new third paragraph of the Environmental Safety Regulations section 11 should clearly state that the record-keeping rules must be at least as strict as the Garbage Record Book provisions set out in MARPOL. The NMA would like to point out that MARPOL regulation V/10.4 allows Member States to exempt mobile offshore units from the requirement to have a Garbage Record Book without any further conditions. We have set a precondition for this exemption that the mobile offshore unit has a system for logging onboard garbage management.

Background for the amendments

On 16 December 2022, the IMO's Marine Environment Protection Committee (MEPC) adopted amendments to the International Convention for the Prevention of Pollution from Ships (MARPOL) by resolutions MEPC.359(79), MEPC.360(79), MEPC.361(79) and MEPC.362(79). Norway developed positions in cooperation with the industry and participated in the negotiations. The industry should be well informed of these amendments through information from special interest organisations and the Norwegian Maritime Authority (NMA).

Resolution MEPC.359(79) adopted amendments to MARPOL Annexes I, II and IV on the establishment of regional port reception facilities for oil residues, noxious liquid substances and sewage within Arctic waters.

Resolution MEPC.360(79) adopted amendments to MARPOL Annex V on the establishment of regional port reception facilities for waste (garbage) within Arctic waters, as well as the introduction of a Garbage Record Book requirement for ships of 100 tons gross tonnage and above.

Resolution MEPC.361(79) adopted amendments to MARPOL Annex VI on the establishment of a Mediterranean Emission Control Area for sulphur oxides and particulate matter.

Resolution MEPC.362(79) adopted amendments to MARPOL Annex VI on the establishment of regional port reception facilities within Arctic waters, information to be included in the bunker delivery note (BDN) and information to be submitted to the IMO Ship Fuel Oil Consumption Database.

In line with current practice, Norwegian translations of the last consolidated annexes to MARPOL will also be made available.

<u>Exemption from the Garbage Record Book requirement for mobile offshore units</u>

MARPOL regulation V/10.4 allows the Parties to the Convention to exempt mobile offshore units from the Garbage Record Book requirement outlined in MARPOL regulation V/10.3. In line with this provision, the Norwegian Maritime Authority has introduced a new third paragraph to section 11 of the Environmental Safety Regulations, which waives the Garbage Record Book requirement for mobile offshore units engaged in petroleum activities on the Norwegian continental shelf, provided they have a system for logging onboard garbage management.

As a result of this amendment, the Norwegian translation of MARPOL Annex V has been corrected. Specifically, the term “kan gi dispensasjon fra” has been changed to “kan frita fra” in MARPOL regulation V/10.4. The change has been made to ensure that the Norwegian translation better complies with the term “may waive” used in the English original.

The MARPOL amendments in detail

Resolution MEPC.359(79)

Amendments to MARPOL regulation I/38.4

According to MARPOL regulation I/38, the Parties to the Convention must ensure that oil loading terminals, repair ports, and other ports in which ships have oily residues to discharge are provided with facilities for the reception of such residues and oily mixtures as remain from oil tankers and other ships adequate to meet the needs of the ships using them without causing undue delay to ships. The location and capacity of these reception facilities are specified in paragraphs 1 to 3 of MARPOL regulation I/38.

An exemption for “small island developing States” from the mentioned provisions is stipulated in MARPOL regulation I/38.4. These States may fulfil the requirements in MARPOL regulation I/38 paragraphs 1 to 3 through regional reception facility arrangements. The exemption provision in MARPOL regulation I/38.4 is extended to include “States the coastline of which borders on Arctic waters, provided that regional arrangements shall cover only ports within Arctic waters of those States”.

Amendments to MARPOL regulation I/38.6

According to MARPOL regulation I/38.5, Parties to the Convention with coastlines bordering any given special area must ensure that all oil loading terminals and repair ports within the special area are equipped with facilities adequate for the reception and treatment of all dirty ballast and tank washing water from oil tankers. Additionally, all ports within the special area must have adequate reception facilities for other residues and oily mixtures from all ships. These facilities must have sufficient capacity to meet the needs of the ships using them without causing undue delay.

An exemption for “small island developing States” from this provision is stipulated in MARPOL regulation I/38.6. These States may fulfil the requirements in MARPOL regulation I/38.5 through regional reception facility arrangements.

The exemption provision in MARPOL regulation I/38.5 is extended to include “States the coastline of which borders on Arctic waters, provided that regional arrangements shall cover only ports within Arctic waters of those States”.

MARPOL Annex I has been implemented in Norwegian legislation through incorporation into section 4 of the Environmental Safety Regulations. The amendments to MARPOL Annex I that follow from MEPC.359(79) are implemented in Norwegian legislation by reference in section 4 of the Environmental Safety Regulations.

Amendments to MARPOL regulation II/18.3

According to MARPOL regulation II/18.1, Parties to the Convention must ensure that reception facilities are provided according to the needs of ships using its ports, terminals or repair ports under specified conditions.

"Small island developing States" may be exempt from this provision pursuant to MARPOL regulation II/18.3. These states may fulfil the requirements in MARPOL regulations II/18.1, 18.2 and 18.4 through regional reception facility arrangements. The exemption provision in MARPOL regulation II/18.3 is expanded to include "States the coastline of which borders on Arctic waters, provided that regional arrangements shall cover only ports within Arctic waters of those States".

MARPOL Annex II has been implemented in Norwegian legislation by incorporation into section 7 of the Regulations on environmental safety for ships and mobile offshore units. The amendments to MARPOL Annex II that follow from MEPC.359(79) are implemented in Norwegian legislation by reference in section 7 of the Environmental Safety Regulations.

Amendments to MARPOL regulation IV/12.2

According to MARPOL regulation IV/12.1, a Party to the Convention, which requires ships operating in waters under its jurisdiction and visiting ships while in its waters to comply with the requirements of regulation 11.1, must ensure that facilities are provided at ports and terminals of the reception of sewage, without causing delay to ships, adequate to meet the needs of the ships using them.

It is stipulated in MARPOL regulation IV/17.2 that "small island developing States" may be exempt from the sewage reception facility requirements through regional reception facility arrangements. The exemption provision in MARPOL regulation IV/12.2 is extended to include "States the coastline of which borders on Arctic waters, provided that regional arrangements shall cover only ports within Arctic waters of those States".

MARPOL Annex IV has been implemented in Norwegian legislation by incorporation into section 9 of the Regulations on environmental safety for ships and mobile offshore units. The amendments to MARPOL Annex IV resulting from MEPC.359(79) are implemented in Norwegian legislation by reference in section 9 of the Environmental Safety Regulations.

Resolution MEPC.360(79)

Amendments to MARPOL regulation V/8.3

According to MARPOL regulation V/8.1, Parties to the Convention are obliged to ensure that adequate facilities are provided at ports and terminals for the reception of garbage without causing undue delay to ships, and according to the needs of the ships using them.

MARPOL regulation V/8.2. applies to reception facilities within special areas. This provision reads: "Each Party, the coastline of which borders a special area, undertakes to ensure that as soon as possible, in all ports and terminals within the special area, adequate reception facilities are provided, taking into account the needs of ships operating in these areas".

Additionally, MARPOL regulation V/8.3 may meet the requirements through regional reception facility arrangements. The exemption provision in MARPOL regulation V/8.3 is extended to include "States the coastline of which borders on Arctic waters, provided that regional arrangements shall cover only ports within Arctic waters of those States".

MARPOL Annex V has been implemented in Norwegian legislation by incorporation into section 11 of the Regulations on environmental safety for ships and mobile offshore units. The amendments to MARPOL Annex V resulting from MEPC.360(79) are implemented in Norwegian legislation by reference in section 11 of the Environmental Safety Regulations.

Amendments to MARPOL regulation V/10.3

MARPOL regulation V/10.1-6 contains provisions regarding garbage management and record-keeping. In MARPOL regulation V/10.3, the following is stipulated: "Every ship of 100 gross tonnage and above and every ship which is certified to carry 15 or more persons engaged in voyages to ports or offshore terminals under the jurisdiction of another Party to the Convention and every fixed or floating platform shall be provided with a Garbage Record Book."

The provision of MARPOL regulation V/10.3 has been extended to include ships of 100 gross tonnage and above.

MARPOL Annex V has been implemented in Norwegian legislation by incorporation into section 11 of the Regulations on environmental safety for ships and mobile offshore units. The amendments to MARPOL Annex V resulting from MEPC.360(79) are implemented in Norwegian legislation by reference in section 11 of the Environmental Safety Regulations.

Resolution MEPC.361(79)
Amendments to MARPOL Annex VI

MARPOL regulation VI/14 addresses sulphur oxides (SO_x) and particulate matter. The following is stipulated in MARPOL regulation VI/14.3: "For the purpose of this regulation, an emission control area shall be any sea area, including any port area, designated by the Organization in accordance with the criteria and procedures set forth in appendix III to this Annex." It is specified that these emission control areas include the Baltic Sea area, the North American Emission Control Area and the United States Caribbean Sea Emission Control Area.

A new Mediterranean Sea Emission Control Area has been introduced in MARPOL regulation VI/14.3.5. Furthermore, MARPOL Annex VI appendix VII has been amended to include a new paragraph 4 regarding the "Mediterranean Sea Emission Control Area for Sulphur Oxides and Particulate Matter", providing the coordinates for this new emission control area. The SO_x emissions requirements in this area will be the same as in other emission control areas.

MARPOL Annex VI has been implemented in Norwegian legislation by incorporation into section 12 of the Regulations on environmental safety for ships and mobile offshore units. The amendments to MARPOL Annex VI that follow from MEPC.361(79) are implemented in Norwegian legislation by reference in section 12 of the Environmental Safety Regulations.

Resolution MEPC.362(79)
Amendments to MARPOL Annex VI

According to MARPOL regulation VI/17.1, adequate reception facilities must be provided for the reception of ozone-depleting substances and equipment containing such substances, residues from exhaust gas cleaning systems and needs in ship-breaking facilities for the reception of ozone-depleting substances and equipment containing such substances.

Additionally, it is stipulated in MARPOL regulation VI/17.2 that "small island developing States" can fulfil these requirements through regional reception facility arrangements. The amendments to MARPOL regulation VI/17.2 have extended this provision to include "States the coastline of which borders on Arctic waters, provided that regional arrangements shall cover only ports within Arctic waters of those States".

Amendments to MARPOL Annex VI, Appendix V

MARPOL Annex VI appendix V on "Information to be included in the bunker delivery note" has been amended by adding the following content in item 9:

"The flashpoint (°C) specified in accordance with standards acceptable to the Organization,* or a statement that the flashpoint has been measured at or above 70°C."

The existing item 9 is renumbered as new item 10.

Amendments to MARPOL Annex VI, Appendix IX

MARPOL Annex VI appendix IX specifies the information required for submission to the IMO Ship Fuel Oil Consumption Database. The amendments to this appendix involve including CII and EEXI data in the information reported to the IMO Ship Fuel Oil Consumption Database.

MARPOL Annex VI has been implemented in Norwegian legislation by incorporation into section 12 of the Regulations on environmental safety for ships and mobile offshore units. The amendments to MARPOL Annex VI that follow from MEPC.362(79) are implemented in Norwegian legislation by reference in section 12 of the Environmental Safety Regulations.

Administrative and financial implications

The Norwegian Maritime Authority assumes that parties who regularly engage with the Environmental Safety Regulations are well-informed about MARPOL amendments. The implementation of resolutions MEPC.359(79), MEPC.360(79), MEPC.361(79) and MEPC.362(79) is expected to have limited administrative and financial effects on authorities and the industry.

MEPC.359(79) adopted amendments to MARPOL Annexes I, II and IV on the establishment of regional port reception facilities within Arctic waters. The NMA has decided that Norway will not establish regional port reception arrangements within Arctic waters at this point. Therefore, the implementation of this resolution will not result in any financial or administrative implications for the industry or the authorities.

Additionally, the Environmental Safety Regulations do not cover ship reception facilities. If Norway decides to establish regional facilities in the future, it may require amending other legislation, considering the EEA Agreement.

The amendments to the Garbage Record Book will add some administrative tasks for affected ships. However, we do not anticipate the amended provisions to significantly increase industry costs. With more ships now required to maintain a Garbage Record Book, authorities may need to adapt their supervisory tasks and handle additional administrative work.

Resolution MEPC.361(79) adopted amendments to MARPOL Annex VI on the establishment of a Mediterranean Emission Control Area for sulphur oxides and particulate matter. Norwegian ships operating in the new Mediterranean Emission Control Area may face compliance costs related to meeting the emission requirements taking effect on 1 May 2024.

The amendments to the bunker delivery note are not expected to have significant consequences for the industry. However, the new information to be submitted will aid authorities in monitoring ship SO_x emissions. According to MARPOL regulation VI/18.6, the bunker delivery note shall be "readily available for inspection at all reasonable times".

While the Environmental Safety Regulations do not cover fuel supply to the shipping industry, ships are responsible for ensuring that bunker delivery notes contain accurate and sufficient information.

Exemption from the Garbage Record Book requirement for mobile offshore units

A new third paragraph has been added to section 11 of the Environmental Safety Regulations, stipulating that mobile offshore units engaged in petroleum activities on the Norwegian continental shelf are not required to maintain a Garbage Record Book if they have a system for logging onboard garbage management. This provision will reduce administrative burdens for both the industry and public administration.

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Attachments:

Regulation concerning amendments to the Regulations on environmental safety for ships and mobile offshore units

This document has been electronically approved, and therefore does not contain handwritten signatures.