

Order on the prohibition of transport in bulk as cargo, use as ballast or transport and use as marine fuel of heavy oil in the Antarctic and use and transport as marine fuel of heavy oil in the Arctic¹

Pursuant to Sections 32(1), 33(1), 48(1) and (2) and 61(1) of the Marine Environment Protection Act, cf. Consolidation Act No 147 of 19 February 2024:

Scope and definitions

Section 1. The Order shall apply to Danish ships, cf. Section 2(1)(1) of the Act.

Paragraph 2. The Executive Order does not apply to the following:

- 1) Warships and other ships owned or operated by a State as long as the ship is used exclusively for non-commercial government activities.
- 2) Ships involved in the safety of ships or in search and rescue operations.
- 3) Ships that are part of emergency responses to oil spills in the Arctic.

Section 2. The following definitions apply for the purposes of this Order:

- 1) The exclusive economic zone of Greenland: The sea area outside and adjacent to the Greenlandic territorial sea up to a distance of 200 nautical miles from the baselines currently in force.
- 2) Antarctic sea area: Sea area south of 60° south latitude.
- 3) Arctic sea area: The sea area lying to the north of a line from latitude 58°00'. 0 N and longitude 042°00'. 0 W to latitude 64°37'. 0 N, longitude 035° 27'. 0 W and thence via a rhumb line to latitude 67°03'. 9 N, longitude 026°33'. 4 W and thence via a rhumb line to latitude 70°49'. 56 N and longitude 008°59'. 61 W (Sørkapp, Jan Mayen) and via the southern coast of Jan Mayen to 73°31'. 6 N and 019°01'. 0 Ø at Bjørnøya, and thence via a large circular line to latitude 68°38'. 29 N and longitude 043°23'08 Ø (Cape Kanin Nos) and thence via the northern coast of the Asian continent eastwards to the Bering Strait and thence from the Strait of Bering westwards to latitude 60°N, as far as Il'pyrskiy and along the 60th northern latitude eastwards to and including the Strait of Etolin and thence via the northern coast of the North American continent as far south as to latitude 60°N and thence eastwards along the latitude 60°N to the longitude 056°37'. 1 W and thence to latitude 58°00'. 0 N, longitude 042°00'. 0 W.
- 4) Category A ship: A ship which, according to the ship's polar ship certificate, is certified as a Category A ship by a classification society approved by the Danish Maritime Authority.
- 5) Category B ship: A ship which, according to the ship's polar ship certificate, is certified as a Category B ship by a classification society approved by the Danish Maritime Authority.
- 6) Coast: The baseline from which the contiguous territorial water is determined in accordance with international law.
- 7) Contiguous territorial water: Contiguous territorial water as covered by the definition in Section 5(2) of the Marine Environment Protection Act
- 8) Oil: Oil as covered by the definition in Section 9(1) of the Marine Environment Protection Act.
- 9) Crude oil: Any liquid hydrocarbon mixture naturally present in the soil, whether or not it has been treated to make it suitable for transport, including crude oil, from which certain distillates may have been removed, and crude oil to which certain distillates may have been added.
- 10) Ship: Seagoing vessel of any type that operates in the marine environment, including hydrofoil boats, hovercraft, submarines, floating platforms and floating equipment.
- 11) Territorial sea: Territorial sea as covered by the definition in Section 5(1) of the Marine Environment Protection Act.

Prohibition of transport in bulk as cargo, use as ballast or transport for the use and use as marine fuel of heavy oil in the Antarctic sea area

Section 3. The following shall be prohibited in the Antarctic sea area:

- 1) Transport of heavy oil in bulk as cargo.
- 2) Use of heavy oil as ballast.
- 3) Transport of heavy oil as marine fuel.
- 4) Use of heavy oil as marine fuel.

Paragraph 2. For the purposes of paragraph 1 of this provision, heavy oil means:

- 1) Crude oil with a density higher than 900 kg/m³ at 15 °C.

¹A draft of this Order has been notified in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codification).

- 2) Oil, other than crude oil, with a density higher than 900 kg/m³ at 15 °C or a kinematic viscosity at 50 °C higher than 180 mm²/s.
- 3) Bitumen, tar and their emulsions.

Prohibition of use and transport for the use of heavy oil as marine fuel in the Arctic sea area

Section 4. The use of heavy oil as marine fuel and transport for the use of heavy oil as marine fuel is prohibited in the Arctic sea area.

Paragraph 2. For the purposes of paragraph 1 of this provision, heavy oil means oil, other than crude oil, with a density higher than 900 kg/m³ at 15 °C or a kinematic viscosity higher than 180 mm²/s at 50 °C.

Exemption from tank and pipe cleaning

Section 5. Tank and pipe cleaning is not required after previous use or transport of heavy oil covered by Section 3(2)(1-3) in the Antarctic sea area and Section 4(2) as marine fuel in the Arctic sea area.

Dispensation

Section 6. The Environmental Protection Agency may, on the basis of an application, grant a temporary dispensation from the prohibition in Section 4 to Danish and Greenlandic ships when the ship is operating in the exclusive economic zone of Greenland. Dispensations may only be granted for the period up to and including 30 June 2029. If the applicant's shipping route includes both the exclusive economic zone of Greenland and the Greenlandic territorial sea, coordination between Naalakkersuisut and the Environmental Protection Agency with a view to taking a joint decision on a dispensation shall take place. The Environmental Protection Agency shall consult Naalakkersuisut before the Environmental Protection Agency decides on the granting of a dispensation for ships in the exclusive economic zone of Greenland.

Paragraph 2. The Environmental Protection Agency may lay down specified conditions by granting a dispensation in accordance with paragraph 1.

Paragraph 3. In administering paragraph 1, the Environmental Protection Agency shall take into account the UN Maritime Organisation's guidelines for the preparation of such dispensations.

Paragraph 4. The Environmental Protection Agency shall inform the UN Maritime Organisation with information on dispensations issued in accordance with paragraph 1.

Supervision

Section 7. The Environmental Protection Agency supervises compliance with the rules laid down in this Order, cf. the Act's rules on this matter.

Appeals

Section 8. The Environmental Protection Agency's decisions under this Order may not be appealed to the Minister for the Environment.

Penalties

Section 9. Unless higher penalties are stipulated under other legislation, fines will be imposed on those who:

- 1) use or transport heavy oil in violation of the rules laid down in Sections 3 and 4;
- 2) overrides the terms of a dispensation granted under Section 6(2); or
- 3) provides incorrect information in connection with the application for dispensation under Section 6(1)

Paragraph 2. The penalty may increase to 2 years' imprisonment if the infringement was committed wilfully or through serious negligence, and said infringement:

- 1) caused damage to the environment or endangered it; or
- 2) achieved or was intended to achieve a financial benefit for the party concerned or for others, including through savings.

Paragraph 3. Companies, etc. (legal persons) may be held liable in accordance with the rules laid down in Chapter 5 of the Penal Code, cf. Section 62 of the Marine Environment Protection Act.

Entry into force and transitional provisions

Section 10. This Order shall enter into force on 1 July 2024, without prejudice to (2).

Paragraph 2. Section 4 of the Order shall not apply until 1 July 2029 for the following ships:

- 1) Ships that comply with the provisions of Annex 1, Rule 12A, of the Order on prevention of pollution from ships.
- 2) Category A and B ships constructed after 1 January 2017 with a total oil fuel capacity of less than 600 m³ but not less than 30 m³.

The Ministry of the Environment, XX

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