

Order no. 508 of 18 June 2005

Order on the Prevention of Air Pollution from Ships and Offshore Platforms

The following shall be laid down pursuant to section 24, section 31(4), section 33, section 45, section 48, section 61 and section 62 of Act no. 476 of 30 June 1993, on the Protection of the Marine Environment (*beskyttelse af havmiljøet*), as amended by section 1 of Act no. 394 of 22 May 1996, Act no. 435 of 10 June 1997, Act no. 902 of 16 December 1998, Act no. 315 of 5 May 2000, section 1 of Act no. 316 of 5 May 2000, Act no. 261 of 8 May 2002, section 1 of Act no. 393 of 28 May 2003 and section 2 of Act no. 1373 of 20 December 2004 upon negotiations with the Minister for Transport and Energy, and taking into account Annexes VI and IV of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78) for the prevention of pollution of the marine environment in the Baltic region:

Scope and definitions

1. This Executive Order shall apply to Danish ships in Danish and international waters, foreign ships in Danish territorial waters, offshore platforms in Danish territorial waters and in the exclusive economic zone. This Executive Order shall also apply to ports as specified in section 7.

2. The following definitions shall apply under this Order:

- 1) MARPOL 73/78: the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978.
- 2) Emissions mean any release of substances, subject to control by this Executive Order, from ships and offshore platforms into the atmosphere or sea.
- 3) Ozone-depleting substances mean substances defined in paragraph 4 of article 1 of the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987, listed in Annexes A, B, C or E to the said Protocol in force.
- 4) IMO means the International Maritime Organisation.

Ozone-depleting substances

3.-(1) Any deliberate emissions of ozone-depleting substances from ships or offshore platforms shall be prohibited. Deliberate emissions include emissions occurring in the course of maintaining, servicing, repairing or disposing of systems or equipment.

(2) Deliberate emissions shall not include minimal releases associated with the recapture or recycling of an ozone-depleting substance.

(3) Ozone-depleting substances and equipment containing ozone-depleting substances shall be delivered to appropriate reception scheme when removed from ships or offshore platforms, cf. section 7.

4. For ships and platforms in Danish territorial waters and which are not registered in an EU country, installations first used after 19 May 2005 shall not contain ozone-depleting substances. However, hydro-chlorofluorocarbons (HCFCs) are permitted in these installations if they are first used before 1 January 2020. Danish ships and offshore platforms as well as ships and offshore platforms registered in an EU country in Danish territorial waters shall be regulated according to Regulation of the European Parliament and of the Council on substances that deplete the ozone layer as well as current regulations in the Executive Order on certain ozone-depleting substances (*bekendtgørelse on visse ozonlagsnedbrydende stoffer*).

Shipboard incineration

5. Shipboard incineration of wastes or other matter generated during the normal operation of ships and offshore platforms shall be prohibited in Danish territorial waters.

6.-(1) Shipboard incineration of wastes or other matter generated during the normal operation of ships and offshore installations outside Danish territorial waters shall be allowed only in an approved shipboard incinerator.

(2) Shipboard incineration of sewage sludge and sludge oil generated during the normal operation of a ship or offshore platform may, however, outside Danish territorial waters take place in the main or auxiliary power plant or boilers, but in those cases, shall not take place inside ports, harbours, fjords and similar areas.

(3) Shipboard incineration of the following substances shall be prohibited:

- 1) Annex I, II and III cargo residues of the MARPOL 73/78 and related contaminated packing materials.
- 2) Polychlorinated biphenyls (PCBs).
- 3) Garbage as defined in Annex V of the 73/78 MARPOL, containing more than traces of heavy metals.
- 4) Refined petroleum products containing halogen compounds.
- 5) Polyvinyl chlorides (PVCs), except in shipboard incinerators for which IMO Type Approval Certificates have been issued.

Reception facilities in ports

7. In repair ports and ship breaking facilities, the port authorities or the person in charge of the port or ship breaking facilities shall undertake to ensure provision of facilities adequate for the reception of ozone-depleting substances and equipment containing such substances when removed from the ship or offshore platform.

Control and right of appeal

8.-(1) Supervision and control of compliance with the regulations set out in this Executive Order shall be carried out by the Danish Environmental Protection Agency with assistance from the Danish Maritime Authority with regard to supervision of ships and by the Danish Energy Authority with regard to supervision of offshore platforms.

(2) Decisions under subsection (1) made by the Danish Environmental Protection Agency cannot be brought before another administrative authority.

Penalties and entry into force

9.-(1). Unless more severe penalty is due under other legislation, offenders shall be liable to a fine for:

- 1) emitting ozone-depleting substances contrary to section 3(1),
- 2) refraining from delivering ozone-depleting substances to a reception facility, cf. section 3(3),
- 3) using ozone-depleting substances in installations contrary to section 4, 1st-2nd clauses,
- 4) incinerating wastes or other matter generated from normal operation in Danish territorial waters, cf. section 5,
- 5) incinerating wastes and other matter generated from normal operation outside Danish territorial waters contrary to section 6, or
- 6) omitting to establish a reception scheme in accordance with section 7.

(2) The penalty may be increased to imprisonment for up to two years if the violation is committed intentionally or through gross negligence, and if the violation:

- 1) has damaged the environment or produced a risk of damage, or
- 2) resulted in or was intended to result in financial advantage for the person in question or for others, including through cost savings.

(3) Subsection (2) shall not apply to violations committed from foreign ships. The penalty may be increased to imprisonment for up to two years for violations committed from foreign ships in Danish territorial waters, and if the violation was intentional and resulted in serious contamination of the marine environment.

(4) Companies, etc. may incur criminal liability under the regulations in Chapter 5 of the Danish Criminal Code (*straffeloven*), cf. section 62 of the Act.

10. This Executive Order shall enter into force on 1 July 2005.

Ministry of the Environment, 18 June 2005

Connie Hedegaard

/Helge Andreasen