

Translation. Only the Danish document has legal validity.

Order no. 1488 of 20 November 2009 issued by the Danish Ministry of the Environment

Order on competent authorities and supplementary provisions under Regulation (EC) no. 782/2003 of the European Parliament and of the Council of 14 April 2003 on the prohibition of organotin compounds on ships as well as Commission Regulation (EC) no. 536/2008 of 13 June 2008 giving effect to Article 6(3) and Article 7 of Regulation (EC) no. 782/2003 of the European Parliament and of the Council on the prohibition of organotin compounds on ships and amending that Regulation¹

In pursuance of section 33(1), section 48, section 58a, section 61 and section 62 of the Act on Protection of the Marine Environment, cf. consolidated act no. 929 of 24 September 2009 and after negotiation with the Minister of Economic and Business Affairs, the following provisions are laid down:

Definitions, etc.

Section 1. The 2003 Regulation shall mean Regulation (EC) no. 782/2003 of the European Parliament and of the Council of 14 April 2003 on the prohibition of organotin compounds on ships.

Subsection 2. The 2008 Regulation shall mean Commission Regulation (EC) no. 536/2008 of 13 June 2008 giving effect to Article 6(3) and Article 7 of Regulation (EC) no. 782/2003 of the European Parliament and of the Council on the prohibition of organotin compounds on ships and amending that Regulation.

Subsection 3. The competent authority in Denmark under the 2003 Regulation and the 2008 Regulation is the Agency for Spatial and Environmental Planning.

Surveys and certification

Section 2. The Danish Maritime Authority shall be authorised to carry out the surveys and issue the AFS certificates stipulated in article 6 of the 2003 Regulation and its annexes I and II.

Subsection 2. The Danish Maritime Authority shall be empowered to authorise classification societies to issue certificates and carry out surveys on ships on behalf of the Minister of the Environment, including carry out inspections and samplings on ships under this Order, cf. section 48a of the act.

¹ This Order supplements the provisions of Regulation (EC) no. 782/2003 of the European Parliament and of the Council of 14 April 2003 on the prohibition of organotin compounds on ships as well as Commission Regulation (EC) no. 536/2008 of 13 June 2008 giving effect to Article 6(3) and Article 7 of Regulation (EC) no. 782/2003 of the European Parliament and of the Council on the prohibition of organotin compounds on ships and amending that Regulation.

Subsection 3. The provisions of section 48a(2-5) of the act shall also apply for the Danish Maritime Authority in connection with an authorisation under subsection 2.

Danish ships with a gross tonnage of or above 400

Section 3. Danish ships covered by article 6(1), para a, of the 2003 Regulation shall apply for an carry an AFS certificate issued in accordance with annexes I and II of the 2003 Regulation, cf. section 2.

*Danish ships with a length of or above 24 metres
but with a gross tonnage below 400*

Section 4. Danish ships covered by article 6(1), para b, of the 2003 Regulation shall fill in and carry on board an AFS declaration filled in in accordance with the form in annex I.

Foreign ships

Section 5. Foreign ships shall carry the documentation stipulated in article 2 of the 2008 Regulation to show that they comply with the provisions of article 5 of the 2003 Regulation.

Payment

Section 6. The Danish Maritime Authority may request a fee for its costs in connection with the surveys and certification under section 2(1), cf. section 58(2) of the act.

Inspection

Section 7. The Agency for Spatial and Environmental Planning, assisted by the Danish Maritime Authority, shall inspect that the regulations stipulated in this Order, the 2003 Regulation and the 2008 Regulation are met. The Danish Maritime Authority shall report contraventions to the Agency for Spatial and Environmental Planning.

Subsection 2. During the inspection mentioned in subsection 1, samples may be taken of the anti-fouling system used on the initiative of the Agency for Spatial and Environmental Planning, cf. section 45(2) of the act.

Section 8. It shall not be possible to bring decisions made by the Agency for Spatial and Environmental Planning under the Regulations and this order before any other administrative authority.

Penalty

Section 9. Unless any stricter penalty is due under other legislation, anyone:

- 1) omitting to apply for and carry an AFS certificate contrary to section 3;
- 2) omitting to fill in and carry an AFS certificate contrary to section 4;
- 3) omitting to carry the necessary documentation contrary to section 5;
- 4) applying or re-applying anti-fouling systems containing organotin compounds with a biocide function contrary to the 2003 Regulation;
- 5) applying an anti-fouling system containing organotin compounds with a biocide function contrary to the 2003 Regulation, unless the anti-fouling system is covered by a coating preventing these compounds from being washed out from the underlying anti-fouling system;

shall be liable to punishment by fine.

Subsection 2. The penalty may be increased to imprisonment for a period of up to 2 years if the contravention has been committed intentionally or by gross negligence and if the contravention:

- 1) has caused damage to the environment or a risk of such damage; or
- 2) achieved or been intended to achieve the contravenor or others an economic benefit, including through savings.

Subsection 3. Companies etc. (legal personalities) may be liable to punishment according to the provisions of chapter 5 of the Penal Code.

Subsection 4. Subsection 2 shall not apply to contraventions made from foreign ships unless the contravention has been made in inner territorial waters. For contraventions made from foreign ships in outer territorial waters the penalty may be increased to imprisonment for a period of up to 2 years in case of intentional and serious pollution of the marine environment.

Entry into force

Section 10. This Order shall enter into force on 4 January 2010.

Subsection 2. Order no. 909 of 9 September 2008 on competent authorities and supplementary provisions under Regulation (EC) no. 782/2003 of the European Parliament and of the Council of 14 April 2003 on the prohibition of organotin compounds on ships as well as Commission Regulation (EC) no. 536/2008 of 13 June 2008 giving effect to Article 6(3) and Article 7 of Regulation (EC) no. 782/2003 of the European Parliament and of the Council on the prohibition of organotin compounds on ships and amending that Regulation shall be repealed.

Subsection 3. AFS certificates and AFS declarations issued in accordance with the regulations in force so far shall retain their validity.

Subsection 4. Applications received before the date mentioned in subsection 1 shall be treated in accordance with the regulations in force until that date.

Ministry of the Environment, 20 November 2009

Troels Lund Poulsen / Helle Pilsgaard

Declaration on anti-fouling system
Erklæring vedrørende antibegroningssystemer

Drawn up under the International Convention on the Control of Harmful Anti-fouling Systems on Ships
Udfærdiget i henhold til den internationale konvention om kontrol af skadelige antibegroningssystemer

Name of ship

Skibets navn:

Distinctive number or letters

Kendingsbogstaver:

Port of registry

Hjemsted:

Length

Længde:

Gross tonnage

Bruttotonnage:

IMO number, if applicable

IMO-nummer (hvis relevant):

I declare that the anti-fouling system used on this ship complies with annex I of the Convention
Undertegnede erklærer herved, at det antibegroningssystem, der er anvendt på dette skib, er i overensstemmelse med annex I i konventionen.

.....
(Date) (Owner or owner's agent authorized signature)
(Dato) (Rederens eller rederens autoriserede agents underskrift)

Endorsement of anti-fouling system(s) applied

Påtegninger vedrørende påførte antibegroningssystemer

Type(s) of anti-fouling system(s) used and date(s) of application

Type antibegroningssystem/systemer, der er anvendt, og påføringsdato(er):

.....
(Date) (Owner or owner's agent authorized signature)
(Dato) (Rederens eller rederens autoriserede agents underskrift)

Type(s) of anti-fouling system(s) used and date(s) of application

Type antibegroningssystem/systemer, der er anvendt, og påføringsdato(er):

.....
(Date) (Owner or owner's agent authorized signature)
(Dato) (Rederens eller rederens autoriserede agents underskrift)

Type(s) of anti-fouling system(s) used and date(s) of application

Type antibegroningssystem/systemer, der er anvendt, og påføringsdato(er):

.....
(Date) (Owner or owner's agent authorized signature)
(Dato) (Rederens eller rederens autoriserede agents underskrift)