

LOCAL VESSELS ADVISORY COMMITTEE

**Proposed Amendments
to the Dangerous Goods (Shipping) Regulations**

Purpose

This paper informs members of the proposed legislative amendments to the Dangerous Goods (Shipping) Regulations (DG(S)R), Cap 295C.

Background

2. Enacted in 1956, the Dangerous Goods Ordinance (DGO), Cap 295, provides for the control on land and at sea of about 400 types of dangerous goods under 10 Categories in accordance with their inherent characteristics, such as explosive, flammable, toxic, etc. Although the DGO has been updated from time to time since its enactment, there have not been any fundamental changes to align the domestic control framework with the commonly adopted international system, namely the International Maritime Dangerous Goods (IMDG) Code¹. As a result, when dangerous goods are imported into, or exported or re-exported from, Hong Kong, they are often required to comply with two distinct sets of requirements prevailing locally and overseas. This has created practical difficulties to local trade and users. Also, enhanced control mechanism needs to be put in place for conveyance of

¹ The International Maritime Dangerous Goods (IMDG) Code is published by the International Maritime Organization, based on the practices recommended by the United Nations Committee of Experts on the Transport of Dangerous Goods. The IMDG Code is now universally adopted for the transport of dangerous goods at sea.

dangerous goods locally on land.

3. Against the above background, the Administration introduced the Dangerous Goods (Amendment) Bill with the aim to improve the regulatory framework of dangerous goods and bring it into line with the IMDG Code. The Bill was passed by the Legislative Council (LegCo) in March 2002. The Dangerous Goods (Amendment) Ordinance (DG(A)O) has not yet commenced operation pending detailed controls to be set out in the subsidiary legislation. To implement the regulatory framework set out in the DG(A)O, the Administration proposes amending relevant subsidiary legislation including the DG(S)R.

4. Members of this committee, the Dangerous Goods Standing Committee and the Port Operations Committee, as well as the barge operators involving in the conveyance of dangerous goods, were consulted in 2002 on the key elements of the proposal on legislative amendments to the DG(S)R. The barge operators were consulted again in December 2011 on the latest proposed amendments. They were generally supportive of the proposal.

Proposed amendments to the DG(S)R

5. The existing DG(S)R sets out the regulatory control over conveyance of dangerous goods in Hong Kong waters. The main objective of the proposed amendments to DG(S)R is to align the local regulatory control with the international standards and current practices. Major proposed amendments to the DG(S)R are highlighted below:

(a) General

- (i) Classification of dangerous goods will follow that of the IMDG Code, subject to minor local variations; for example, the existing Category 1 dangerous goods (explosives) will become “Class 1 dangerous goods (DG)”, the existing Category 5 dangerous goods (flammable liquids) will become “Class 3 DG” and “Class 3A DG”, etc. Definition of some terms; for example, “Type I vessel”², “Type II vessel”³ and “Type III vessel”⁴; will be updated. Some obsolete terms and regulations will be repealed.
- (ii) Some provisions, which are currently stipulated specifically for the conveyance control of explosives or flammable liquids, will be extended to cover gases (Class 2 DG), where appropriate.
- (iii) To more clearly demarcate the control of dangerous goods on land and at sea, provisions currently stipulated in the Dangerous Goods (General) Regulations (DG(G)R), Cap 295B, for granting of removal permits for conveyance of explosives on board vessels, prohibition on carriage of explosives on public ferries and discharge of firework in Hong Kong waters will be relocated to the new DG(S)R.
- (iv) A provision will be included to empower the Director of Marine (D of M) to grant exemption for a specific case or a specific person from all or any provisions of the new DG(S)R.

² A type I vessel is essentially a foreign-going or river-trade vessel other than a tanker.

³ A type II vessel is essentially a foreign-going or river-trade tanker.

⁴ A type III vessel is essentially a locally certificated vessel.

- (v) The First Schedule (approved petroleum wharves) and the Third Schedule (approved container terminals) will be updated and a schedule will be added to specify the fees of various permits. The maximum fines will be suitably revised to preserve the necessary deterrent effect which may have been eroded by inflation over time.

(b) Provisions Relating to Type I and II Vessels

Section 6 of the DGO requires that a licence be granted for the conveyance of dangerous goods. A provision will be introduced to codify the current practice that such a licence is not required for a type I or II vessel. Another provision will be introduced to require that a manifest be submitted for a type I vessel, before dangerous goods are loaded onto it.

(c) Provisions Relating to Type III Vessels

Apart from certain modifications to be made to the existing provisions, new provisions will be introduced in the new DG(S)R to codify the current practices or administrative measures. A provision will be introduced to specify that a vessel conveying gases or flammable liquids in bulk does not require a carriage permit for such conveyance. Another provision will be included to require that when any dangerous goods are being handled on board a type III vessel, a trained person should be in charge of the operation.

To enhance safe handling of flammable liquids in bulk, a provision will be introduced to specify the precautions to be taken while handling these goods.

6. A summary of detailed proposed amendments is at **Annex**.

Latest Position

7. The drafting of the new DG(S)R is near completion. The Administration plans to introduce it into the LegCo in the current legislative year 2011-12. It will be brought into effect, together with the DG(A)O and other subsidiary legislation, when the whole legislative exercise is completed. Consequential amendments will be made to relevant ordinances and regulations arising from the enactment of DG(A)O and its subsidiary legislation.

Advice Sought

8. Members are invited to note the content of this paper and provide comment, if any, on the proposal by 20 January 2012.

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Summary of Proposed Amendments to the Dangerous Goods (Shipping) Regulations

Below is a summary of the proposed amendments to the Dangerous Goods (Shipping) Regulations (DG(S)R), Cap 295C, for the purpose of bringing the regulatory control over conveyance of dangerous goods in Hong Kong waters in line with the international standards and the current practices:

Definitions

- To amend the definitions of terms, where appropriate, for clarity, for example, the definitions of type I, II and III vessels.
- To introduce new terms, for example, terms making reference to dangerous goods as classified in the IMDG Code.
- To repeal obsolete terms, for example, “package”.

Meaning of Dangerous Goods

- To amend the meaning of “dangerous goods” as any substance, material or article that belongs to a specified class or division in the IMDG Code, with the addition of a domestic Class 3A dangerous goods (diesel oil, furnace oil, etc); except where it forms part of the equipment, stores or fuel of a vessel, or is contained in the fuel tank and used as fuel of a vehicle.

Application

- To introduce a provision to codify the current practice that conveyance of dangerous goods by a type I or type II vessel is not required to possess a licence as required under section 6 of the DGO given such vessels are

already required to possess a Document of Compliance under the national requirements of the place with which they are registered.

Obsolete Provisions

- To repeal the following obsolete provisions: regulations 3, 5(1)(a), 5(2), 7, 10, 13, 14(2), 15, 16(2), 18, 19(a), 20, 22(a)(ii), 22(b) and the Second Schedule.

Provisions Relating to Type I Vessels

- To amend the existing regulation to require an arriving type I vessel having on board dangerous goods not to enter Hong Kong waters unless a manifest has been submitted to the Director of Marine (D of M).
- To amend the existing regulation to require that Class 1 DG (explosives), whether contained in a freight container or not, be loaded onto or unloaded from a type I vessel only at the Western Dangerous Goods Anchorage, a place specified by the D of M or any other place that D of M may direct from time to time.
- To introduce a provision to require a type I vessel to submit a manifest to D of M before loading any dangerous goods on board. If, for any reasonable cause, it is not possible to do so before loading the goods, the manifest should be submitted before the vessel's departure from the place at which the goods are loaded.

Provisions Relating to Type II Vessels

- To amend the existing provisions to extend their control to cover conveyance or handling of gases (Class 2 DG), where appropriate, in addition to flammable liquids (Class 3 and 3A DG).

Provisions Relating to Type III Vessels

- To amend the existing regulation to confine the control on towing to towing of a type III vessel having on board explosives (Class 1 DG) only, but no other dangerous goods.
- To amend the existing regulations, where appropriate, to extend their application to gases (Class 2 DG), in addition to explosives (Class 1 DG) or flammable liquids (Class 3 or 3A DG).
- To amend the existing regulation to confine the prohibition against navigation in the harbour during the hours of darkness to prohibiting a type III vessel having on board explosives (Class 1 DG) from being underway in the harbour during such time.
- To amend the existing regulation so that in the event of storm, in the case of a type III vessel having on board explosives (Class 1 DG) must leave the harbour, and in the case of a type III vessel having on board gases (Class 2 DG) or flammable liquids (Class 3 or 3A DG) in bulk may, in addition to a dangerous goods anchorage other than the Western Dangerous Goods Anchorage, also proceed and remain at a private mooring.
- To introduce a provision to codify the current practice that a type III vessel conveying gases (Class 2 DG) or flammable liquids (Class 3 or 3A DG) in bulk is not required to have a carriage permit. The reason is that such vessel is specifically designed and constructed for the conveyance of such goods and is required to possess a declaration of fitness for the purpose.

- To introduce a provision to require a carriage permit to be granted for the conveyance of Class 1 DG on a type III vessel, which is currently a requirement under regulation 4 of the DG(G)R for a removal permit.
- To introduce a provision to exempt a type III vessel that has been granted a conveyance permit under regulation 7 of the Radiation (Control of Radioactive Substances) Regulations, Cap 303A, for the conveyance of radioactive substances at sea from the carriage permit requirement.
- To introduce a provision to control the carriage of Class 1 DG on a type III vessel used for franchised or licensed services, which is currently stipulated in regulation 7 of the (DG(G)R).
- To introduce a provision for the precautions to be taken while Class 3 or 3A DG in bulk are handled on a type III vessel.
- To introduce a provision to codify a current administrative measure to require a trained person to be in charge of the handling, safety, labeling, stowage location and segregation of any dangerous goods on board a type III vessel.

Miscellaneous

- To introduce a provision for the control on discharge of firework at sea, which is currently stipulated in regulation 59 of the DG(G)R.
- To introduce a provision to empower the Director to grant exemption for a specific case or a specific person from all or any provisions of the new DG(S)R.

Fines

- To amend the maximum fines in the existing DG(S)R, from the existing \$10,000 to level 4 (\$25,000) and from the existing \$5,000 to level 3 (\$10,000). (The levels of fines are stipulated in Schedule 8 of the Criminal Procedure Ordinance, Cap 221.)
- To amend the maximum fine for conveyance of Class 1 DG at sea without a removal permit to level 6 (\$100,000). The existing maximum fine as specified in DG(G)R is \$25,000.
- To amend the maximum fine for contravening the provision on carriage of Class 1 dangerous goods on a type III vessel used for franchised or licensed services to level 4 (\$25,000). The existing maximum fine as specified in DG(G)R is \$5,000.
- To amend the maximum fine for discharge of firework without the required permit to level 2 (\$5,000). The existing maximum fine as specified in DG(G)R is \$2000.

Schedules

- To update the First Schedule (approved petroleum wharves) and the Third Schedule (approved container terminals).
- To introduce a schedule to consolidate various permit fees.