

MARINE ENVIRONMENT PROTECTION
COMMITTEE
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ANY OTHER BUSINESS

Proposal for a revision to MARPOL Annex I regulation 43A on the special requirements for the use and carriage of oils as fuels in Arctic waters

Submitted by FOEI, WWF, Pacific Environment and CSC

SUMMARY

Executive summary: This document draws attention to the likelihood that only 30 per cent of the heavy fuel oil (HFO) being carried in Arctic waters and 16 per cent of the HFO being used in Arctic waters will be prohibited from 1 July 2024 when the provisions of MARPOL Annex I regulation 43A take effect. The limited impact of the prohibition on the use and carriage of HFO is highlighted as being due to exemptions which would apply to 22 per cent of ships and the opportunity for Arctic coastal nations to issue waivers to up to 53 per cent of ships operating in the Arctic (based on 2019 Arctic shipping patterns). It proposes that regulation 43A be amended to increase its effectiveness in protecting the Arctic from HFO.

Strategic direction, if applicable: 7

Output: 7.11

Action to be taken: Paragraph 8

Related documents: MEPC 76/3/10, MEPC 76/15, MEPC 76/15/Add.2, MEPC 71/14/4 and resolution MEPC.329(76)

Background

1 In 2017, seven IMO Members, including five Arctic States, submitted document MEPC 71/14/4 (Canada et al.) proposing to “develop measures to reduce environmental risks of use and carriage of HFO as fuel by ships in Arctic waters, particularly with respect to environmental damage associated with potential spills of that fuel.” It warned that “the accidental spill of oil into Arctic waters remains the most significant threat from ships to the Arctic marine environment.” The development and subsequent adoption of regulation 43A of MARPOL Annex I sets out special requirements for the use and carriage of oils as fuels in Arctic waters, in response to an agreed new IMO output addressing “the risk of environmental consequences associated with the potential of a HFO spill in the Arctic in advance of an incident in order to achieve the IMO’s objective of reducing and eliminating adverse impacts from shipping on the environment.”

2 At the time of approval and adoption, concerns had already been raised about the effectiveness of the measure (see document MEPC 76/3/10). It was argued that the draft regulation as amended would provide little protection for Arctic waters for most of this decade, and that the timescales for implementation were inconsistent with international approaches to the protection of the marine environment. Despite the concerns raised, MEPC 76 did not agree to delete the clauses which introduced exemptions for some ships, or which allowed the use of waivers by Arctic coastal states.

3 Resolution MEPC.329(76) was adopted in June 2021 and enters into force on 1 November 2022 (see document MEPC 76/15, paragraph 3.36). The provisions of regulation 43A will initially take effect from 1 July 2024.

4 The regulation, however, allows for exemptions for ships to which regulation 12A of MARPOL Annex I or regulation 1.2.1 of chapter 1 of part II-A of the Polar Code applies (regulation 43A.2), and the potential for Arctic coastal nations to issue waivers for ships flying the flag of that Party while operating in waters subject to the sovereignty or jurisdiction of that Party (regulation 43A.4). These clauses mean that the provisions of regulation 43A.1. prohibiting the carriage and use as fuel of heavy fuel oil by ships operating in Arctic waters will only prohibit the use and carriage for use as fuel of heavy fuel oil by ships in Arctic waters from 1 July 2029.

5 To understand the consequences of the exemptions and waivers in regulations 43A.2. and 43A.4, the International Council on Clean Transportation published a white paper based on an analysis of 2019 Arctic shipping data¹. The analysis showed that 22 per cent of the Arctic fleet would be exempt (under regulation 43A.2) and a further 53 per cent would be eligible for a waiver (under regulation 43A.4). So, together nearly three-quarters of the HFO-fuelled fleet in 2019 would be able to continue to use HFO until 1 July 2029 when the exemptions and waivers cease to apply. Alternatively, only 26 per cent of vessels using HFO in Arctic waters in 2019 would have to move to alternative fuels from 1 July 2024. Based on a projection of the 2019 data, the study showed that only 30 per cent of the HFO being carried in Arctic waters and 16 per cent of the HFO being used in Arctic waters would be prohibited in 2024, and that there would be only a five per cent reduction in black carbon emissions.

6 Arctic Indigenous organizations have also spoken up on the need for a stronger and more comprehensive HFO ban. Inuit Circumpolar Council (ICC) stated in a November 24, 2020 press release²:

"The current HFO regulation as passed will not effectively protect the Arctic from HFO for over a decade, yet it is labelled a ban. The regulation as written sets up an inconsistent approach to environmental protection between territorial and international waters and increases the possibility of transboundary pollution. Protections that take effect in ten years do nothing to address the immediate impacts and imminent threat of a HFO spill and climate change.

Inuit Circumpolar Council is of the opinion that the most effective near-term solution for climate change is to greatly reduce the emission of black carbon, produced from HFO, in the region. An appropriate HFO ban would have recognized this as well as implemented further protections against an oil spill and the devastating effects on the Arctic marine environment."

¹ [The International Maritime Organization's proposed Arctic heavy fuel oil ban: Likely implications and opportunities for improvement \(theicct.org\)](#) September, 2020.

² <https://www.inuitcircumpolar.com/news/inuit-call-for-stronger-protections-for-safe-arctic-shipping-considering-weak-hfo-ban-passed-at-imo/>

7 The co-sponsors believe that a potential 26 per cent reduction in the number of ships using HFO as fuel in Arctic waters in July 2024 does not adequately reduce the risks of an HFO spill in Arctic waters this decade. We propose that the need for exemptions to the provisions of clause 43A.1 be reviewed and clauses 43A.4 and 43A.5 allowing waivers to the special requirements for the use and carriage of oils as fuels in Arctic waters be removed.

Action requested of the Committee

8 The Committee is invited to note the information contained in paragraphs 4 to 7 and to support the amendment of regulation 43A of MARPOL Annex I to increase its effectiveness at protecting the Arctic from HFO.
