



STATUTORY INSTRUMENTS.

S.I. No. 491 of 2009



SEA POLLUTION (HARMFUL SUBSTANCES IN PACKAGED FORM)
REGULATIONS 2009

(Prn. A9/1780)

SEA POLLUTION (HARMFUL SUBSTANCES IN PACKAGED FORM)
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I, NOEL DEMPSEY, Minister for Transport, in exercise of the powers conferred on me by sections 10, 11, 12, 14, (as all amended by the Sea Pollution (Miscellaneous Provisions) Act 2006 (No. 29 of 2006)) 15, 17 and 18 of the Sea Pollution Act 1991 (No. 27 of 1991) and the Maritime Transport, Safety and Security (Transfer of Departmental Administration and Ministerial Functions) Order 2005 (S.I. No. 842 of 2005) and for the purpose of giving effect to Annex III to the MARPOL Convention, hereby make the following regulations:

Citation and commencement.

1. (1) These Regulations may be cited as the Sea Pollution (Harmful Substances in Packaged Form) Regulations 2009.

(2) These Regulations come into operation on 1 January 2010.

Interpretation.

2. (1) In these Regulations—

“correct technical name” means a description of the goods sufficient to identify readily their dangerous characteristics, including any proper shipping name described in the IMDG Code;

“IMDG Code” means the International Maritime Dangerous Goods code published by the International Maritime Organization in London as amended;

“harmful substances” means those substances which are identified as marine pollutants in the IMDG Code or which are identified by any of the criteria in the Appendix to Annex III of the MARPOL Convention (which for convenience of reference is set out in the Schedule to these Regulations);

“MARPOL Convention” means the International Convention for the Prevention of Pollution from Ships, 1973, done at London on the 2 November 1973, as amended by the Protocols of 1978 and 1997;

“packaged form” means any of the forms of containment specified for harmful substances in the IMDG Code.

Extent of application.

3. (1) Unless expressly provided otherwise, these Regulations apply to all ships

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 11th December, 2009.*

- (a) in the State (within the meaning of section 3(2A) (inserted by section 93(4) of the Sea-Fisheries and Marine Jurisdiction Act 2006 (No. 8 of 2006)) of the Sea Pollution Act 1991 (No. 27 of 1991), or
- (b) registered in the State,

carrying harmful substances in packaged form.

(2) Empty packagings which have been previously used for the carriage of harmful substances shall be treated as harmful substances for the purposes of these Regulations unless adequate precautions have been taken to ensure that they contain no residue that is harmful to the marine environment.

(3) These Regulations do not apply to ships' stores and equipment.

Carriage of harmful substances.

4. The carriage of harmful substances by sea on any ship is prohibited otherwise than as provided for in these Regulations.

Adequacy of packaging.

5. The packaging of harmful substances carried by sea shall be adequate to minimise the hazard to the marine environment, having regard to the particular nature of the substances concerned and to the provisions of the IMDG Code.

Marking and labelling.

6. (1) Packages containing a harmful substance which are carried by sea shall be durably marked or labelled with the correct technical name of the substance and shall also be durably marked or labelled to indicate that the substance is a marine pollutant. Such identification shall be supplemented, where possible, by any other means of identification, for example, by use of the relevant number allocated to dangerous substances by the United Nations Committee of Experts on the Transport of Dangerous Goods.

(2) The method of marking a correct technical name or of affixing a label for the purposes of paragraph (1) shall be such as will ensure that, if the package concerned is immersed in the sea for a period of not less than 3 months, the name or other information concerned shall still be identifiable on the package on the expiration of that period. In deciding upon a method to be employed for those purposes, account shall be taken of the durability of the materials used and of the surface of the package.

(3) This Regulation does not apply to packages containing small quantities of harmful substances falling within the specific exemptions in that regard provided for by the IMDG Code.

Stowage.

7. Harmful substances shall be properly stowed and secured on board so as to minimise the hazards to the marine environment, having regard to the particular nature of the substances concerned and to the provisions of the IMDG Code, without impairing the safety of the ship and persons on board.

Discharge.

8. (1) The discharge or jettisoning of harmful substances carried in packaged form is prohibited save where it is necessary for the purpose of securing the safety of the ship or saving life at sea.

(2) Appropriate measures shall be taken regarding the washing of leakages overboard having regard to the particular nature of the substances concerned and to the provisions of the IMDG Code but no such measures shall be taken that would impair the safety of the ship and persons on board.

Identification of harmful substances in documentation.

9. In all documents relating to the carriage of harmful substances by sea that name such substances, the correct technical name of each such substance shall be used and each such substance shall also be identified by the addition of the words “MARINE POLLUTANT”.

Documentation.

10. (1) A shipment offered for carriage shall be accompanied by a signed certificate or declaration by the shipper stating that the shipment is properly packaged and marked, labelled or placarded, as appropriate, and in proper condition for carriage so as to minimise the hazard to the marine environment.

(2) Each ship carrying harmful substances shall have a special list or manifest setting out the harmful substances on board and their location. A detailed stowage plan which sets out the location of the harmful substances on board may be used in place of such list or manifest.

(3) Copies of the documents referred to in paragraph (2) shall be retained on shore by the owner of the ship or his or her representative until the harmful substances are unloaded. Before the departure of the ship a copy shall be made available to a person designated either by the harbour authority or by some other person having control of the harbour or terminal concerned.

(4) At any stopover, where any loading or unloading operations, even partial, are carried out, a revision of the documents referred to in paragraph (2) shall be made available before departure to a person designated either by the harbour authority or by some other person having control of the harbour or terminal concerned.

(5) Where a ship carries a special list or manifest or a detailed stowage plan required for the carriage of dangerous goods by the International Convention for the Safety of Life at Sea 1974 done at London on 1 November 1974, as amended, the documents referred to in paragraph (2) may, subject to paragraph (4), be combined with that documentation. Where such documents are combined, a clear distinction shall be made in the documents between the dangerous goods concerned and the harmful substances to which these Regulations apply.

(6) Anything required to be stated or set out by this Regulation may be stated or set out by any means of electronic data processing or electronic data interchange that is capable of reproducing information in legible form.

Revocation.

11. The Sea Pollution (Harmful Substances in Packaged Form) Regulations 1997 (S.I. No. 513 of 1997) are revoked.

SCHEDULE

Text of Appendix to Annex III of the MARPOL Convention**Criteria for the identification of harmful substances in packaged form**

For the purposes of this Annex, substances identified by any one of the following criteria are harmful substances*:

Category: Acute 1

96 hr LC ₅₀ (for fish)	≤ 1 mg/l and/or
48 hr EC ₅₀ (for crustacea)	≤ 1 mg/l and/or
72 or 96 hr ErC ₅₀ (for algae or other aquatic plants)	≤ 1 mg/l

Category: Chronic 1

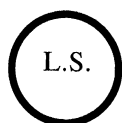
96 hr LC ₅₀ (for fish)	≤ 1 mg/l and/or
48 hr EC ₅₀ (for crustacea)	≤ 1 mg/l and/or
72 or 96 hr ErC ₅₀ (for algae or other aquatic plants)	≤ 1 mg/l

and the substance is not rapidly degradable and/or the log K_{ow} ≥ 4 (unless the experimentally determined BCF < 500).

Category: Chronic 2

96 hr LC ₅₀ (for fish)	>1 to ≤ 10 mg/l and/or
48 hr EC ₅₀ (for crustacea)	>1 to ≤ 10 mg/l and/or
72 or 96 hr ErC ₅₀ (for algae or other aquatic plants)	>1 to ≤ 10 mg/l

and the substance is not rapidly degradable and/or the log K_{ow} ≥ 4 (unless the experimentally determined BCF < 500), unless the chronic toxicity NOECs are > 1 mg/l.



GIVEN under my Official Seal,
8 December 2009.

NOEL DEMPSEY,
Minister for Transport.

*The criteria are based on those developed by the United Nations Globally Harmonized System of Classification and Labelling of Chemicals (GHS), as amended. For definitions of acronyms or terms used in this Appendix, refer to the relevant paragraphs of the IMDG Code.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations give effect to the 2006 revised Annex III of the International Convention for the Prevention of Pollution from Ships, adopted by the International Maritime Organization on 2 November, 1973 and as amended by its Protocol adopted on 17 February, 1978 and as further amended under resolutions adopted by the Marine Environment Protection Committee (MEPC) of the International Maritime Organization.

The Regulations apply to all Irish ships wherever they may be and to all other ships when they are in Irish waters, when carrying harmful substances in packaged form. The Regulations define what constitutes a harmful substance and prohibit the carriage of harmful substances unless done in accordance with provisions for packing, marking and labeling, documentation and stowage.

Section 29 of the Sea Pollution Act, 1991 provides for penalties for breaches of these Regulations.

These Regulations revoke the Sea Pollution (Harmful Substances in Packaged Form) Regulations, 1997 (S.I. No. 513 of 1997).

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