

MERCHANT SHIPPING (PREVENTION OF AIR POLLUTION) REGULATION
- CHAPTER 413M

Empowering section VerDate:01/06/2008

(Cap 413, section 3(2))

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SECT 1

(Omitted as spent) VerDate:01/06/2008

PART 1

PRELIMINARY

(Omitted as spent)

SECT 2

Interpretation VerDate:01/06/2008

In this Regulation, unless the context otherwise requires:

“Administration” in relation to a ship, means the government of any place outside Hong Kong whose flag the ship is entitled to fly;

“Annex VI” means Annex VI to the Convention, entitled “Regulations for the Prevention of Air Pollution from Ships” as from time to time revised or amended by the revision or amendment that applies to Hong Kong;

“anniversary date” in relation to a relevant certificate, has the meaning assigned to it by the definition of “Anniversary date” in Annex VI, which is to apply to the relevant certificate as it applies to an International Air Pollution Prevention Certificate referred to in that definition;

“company” in relation to a ship, means:

(a) the owner of the ship; or

(b) any other person who has assumed responsibility for the operation of the ship, and on assuming such responsibility has agreed to take over all the duties and responsibilities imposed in respect of the ship by the Convention;

“commencement date” means the date on which this Regulation comes into operation;

“constructed” in relation to a specified ship, means:

(a) having the keel of the ship laid; or

(b) being at a stage at which:

(i) construction identifiable with the ship begins; and

(ii) assembly of the ship has commenced comprising at least 50 tonnes or 1% of the estimated mass of all structural material, whichever is the less;

“Convention” means the International Convention for the Prevention of Pollution from Ships, 1973, including its protocols and appendices, and Annex VI (but no other Annex), as from time to time revised or amended by the revision or amendment to any provision of such Convention that applies

to Hong Kong;

“Convention country” means a country which is a party to the Convention;

“emission” means any release from a ship into the atmosphere or sea of any substance subject to control under Part 4;

“fuel oil” in relation to a ship, means any oil used on board the ship for combustion in connection with its propulsion and operation;

“Government surveyor” means a person appointed under section 44 to be a Government surveyor;

“HKAPP Certificate” means a certificate issued under section 8;

“Hong Kong Air Pollution Prevention Certificate” means:

(a) a HKAPP Certificate; or

(b) a certificate entitled “Hong Kong Air Pollution Prevention Certificate” issued by a recognized organization in compliance with this Regulation;

“IAPP Certificate” means a certificate issued under section 7;

“IMO” means the International Maritime Organization;

“International Air Pollution Prevention Certificate” means:

(a) an IAPP Certificate;

(b) a certificate entitled “International Air Pollution Prevention Certificate” issued by a recognized organization in conformity with Annex VI; or

(c) any other certificate issued by or under the authority of an Administration in conformity with the Annex;

“international voyage” means a voyage between:

(a) Hong Kong and a port outside the People's Republic of China; or

(b) a port in a Convention country and a port outside that country

(whether in another Convention country or not);

“local supplier” means the person who delivers fuel oil to a ship in Hong Kong;

“major conversion” in relation to a relevant diesel engine, means a modification of the engine where:

(a) the engine is replaced by a new diesel engine built on or after 1 January 2000;

(b) any substantial modification, as defined in the NOx Technical Code, is made to the engine;

or

(c) the maximum continuous rating of the engine is increased by more than 10%;

“NOx Technical Code” means the Technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines adopted by resolution 2 of the 1997 MARPOL Conference on 26 September 1997, as from time to time revised or amended by the revision or amendment that applies to Hong Kong;

“non-Hong Kong ship” means a ship other than a Hong Kong ship;

“non-international voyage” means:

(a) a voyage that begins and ends within the waters of Hong Kong, during the course of which the ship concerned does not call at any port outside Hong Kong; or

(b) a voyage between Hong Kong and any other port in the People's Republic of China, during the course of which the ship concerned does not call at any port outside the People's Republic of China;

“ozone depleting substance” means any controlled substance defined in paragraph 4 of article 1 of the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987, as listed in Annex A, B, C or E to the Protocol, as from time to time revised or amended by the revision or amendment that applies to Hong Kong;

“recognized organization” means an organization recognized by the Director under section 46;

“regulated Hong Kong ship” means a regulated ship that is a Hong Kong ship;

“regulated ship” means a specified ship of 400 gross tonnage or above;

“relevant certificate” means an IAPP Certificate or a HKAPP Certificate;

“relevant diesel engine” means a diesel engine with a power output of more than 130 kW:

(a) that is installed on a specified ship constructed on or after 1 January 2000; or

(b) that undergoes a major conversion on or after 1 January 2000;

“shipboard incinerator” means a shipboard facility designed for the primary purpose of incineration;

“specified ship” means:

- (a) a Hong Kong ship, wherever it may be; and
- (b) a non-Hong Kong ship within the waters of Hong Kong, but does not include:
- (c) warships;
- (d) naval auxiliaries; or
- (e) other ships owned or operated by a government and used only on government non-commercial service;

“surveyor” means:

- (a) a Government surveyor; or
- (b) a recognized organization.

SECT 3

Prohibition on regulated ships being engaged in international voyages without International Air Pollution Prevention Certificates VerDate:01/06/2008

PART 2

PROHIBITIONS AFFECTING REGULATED SHIPS

(1) Subject to subsection (2) and section 4, a regulated ship is not to be engaged in an international voyage unless an International Air Pollution Prevention Certificate is in force in respect of the ship.

(2) Subsection (1) does not apply to a regulated ship constructed before 19 May 2005 until the earlier of:

- (a) the first scheduled dry-docking referred to in Annex VI that falls after that date; or
- (b) 19 May 2008.

SECT 4

Exception to section 3 VerDate:01/06/2008

Section 3 does not prevent a regulated ship from being engaged in an international voyage if there is in force in respect of the ship a certificate (other than an International Air Pollution Prevention Certificate) issued by or under the authority of an Administration, certifying that the ship is in compliance with the requirements of Annex VI.

SECT 5

Prohibition on regulated ships being engaged in non-international voyages without certain certificates VerDate:01/06/2008

(1) Subject to subsections (2) and (3) and section 6, a regulated ship is not to be engaged in a non-international voyage unless an International Air Pollution Prevention Certificate or a Hong Kong Air Pollution Prevention Certificate is in force in respect of the ship.

(2) Subsection (1) does not apply to a regulated ship that is not self-propelled.

(3) Subsection (1) does not apply to a regulated ship constructed before the commencement date until the earlier of:

- (a) the first scheduled dry-docking referred to in Annex VI that falls after the commencement date; or
- (b) one year after the commencement date.

SECT 6

Exception to section 5 VerDate:01/06/2008

Section 5 does not prevent a regulated ship from being engaged in a non-international voyage if there is in force in respect of the ship a certificate or document issued by or under the authority of an Administration the effect of which is recognized by the Director as equivalent to that of a relevant certificate.

SECT 7

Application for IAPP Certificates VerDate:01/06/2008

PART 3

GENERAL PREVENTIVE CONTROLS AFFECTING REGULATED HONG KONG SHIPS

Division 1-Issue of Relevant Certificates in respect of Regulated Hong Kong Ships

(1)A company of a regulated Hong Kong ship may apply to the Director for a certificate entitled “International Air Pollution Prevention Certificate” in respect of the ship.

(2)An application under subsection (1) is to be accompanied by the prescribed fee in relation to the issue of an IAPP Certificate.

(3)The Director shall not issue an IAPP Certificate in respect of a regulated Hong Kong ship unless he is satisfied:

- (a) that:
 - (i) where an IAPP Certificate has never been issued in respect of the ship, an initial survey of the ship has been carried out in accordance with section 9; or
 - (ii) where an IAPP Certificate has been issued in respect of the ship, a renewal survey of the ship has been carried out in accordance with section 10; and
- (b) that, on the evidence of a declaration of survey forwarded to the Director under section 9(2) or 10(2), the equipment, systems, fittings, arrangements and material of the ship comply with the requirements under Annex VI.

SECT 8

Application for HKAPP Certificates VerDate:01/06/2008

(1)A company of a regulated Hong Kong ship may apply to the Director for a certificate entitled “Hong Kong Air Pollution Prevention Certificate” in respect of the ship.

(2)An application under subsection (1) is to be accompanied by the prescribed fee in relation to the issue of a HKAPP Certificate.

(3)The Director shall not issue a HKAPP Certificate in respect of a regulated Hong Kong ship unless he is satisfied:

- (a) that:
 - (i) where a HKAPP Certificate has never been issued in respect of the ship, an initial survey of the ship has been carried out in accordance with section 9; or

(ii) where a HKAPP Certificate has been issued in respect of the ship, a renewal survey of the ship has been carried out in accordance with section 10; and

(b) that, on the evidence of a declaration of survey forwarded to the Director under section 9(2) or 10(2), the equipment, systems, fittings, arrangements and material of the ship comply with the requirements under this Regulation.

SECT 9

Initial surveys VerDate:01/06/2008

Division 2- Surveys of Regulated Hong Kong Ships

(1) An initial survey of a regulated Hong Kong ship is to be carried out by a surveyor before the ship is put into service or before any relevant certificate is issued for the first time in respect of the ship.

(2) If, after having carried out an initial survey in respect of a regulated Hong Kong ship, the surveyor is satisfied that the equipment, systems, fittings, arrangements and material of the ship comply with the requirements under Annex VI or this Regulation (as may be applicable), he shall make a declaration of survey to the effect that he is so satisfied and forward the declaration of survey to the Director.

(3) If a regulated Hong Kong ship is installed with a relevant diesel engine or provided with any equipment to which section 27 applies, the initial survey of the ship, in so far as it relates to such engine or equipment, is to be conducted in accordance with the NOx Technical Code.

SECT 10

Renewal surveys VerDate:01/06/2008

(1) A renewal survey of a regulated Hong Kong ship is, except where section 15, 19 or 20 is applicable, to be carried out by a surveyor within 5 years:

(a) from the date of completion of the initial survey; or

(b) if a renewal survey of the ship has been carried out in respect of the ship, from the date of completion of the preceding renewal survey.

(2) If, after having carried out a renewal survey in respect of a regulated Hong Kong ship, the surveyor is satisfied that the equipment, systems, fittings, arrangements and material of the ship comply with the requirements under Annex VI or this Regulation (as may be applicable), he shall make a declaration of survey to the effect that he is so satisfied and forward the declaration of survey to the Director.

(3) If a regulated Hong Kong ship is installed with a relevant diesel engine or provided with any equipment to which section 27 applies, the renewal survey of the ship, in so far as it relates to such engine or equipment, is to be conducted in accordance with the NOx Technical Code.

SECT 11

Intermediate surveys VerDate:01/06/2008

(1) An intermediate survey of a regulated Hong Kong ship is to be carried out by a surveyor:

(a) within the period commencing 3 months before and ending 3 months after the second anniversary date of the relevant certificate issued in respect of the ship; or

(b) within the period commencing 3 months before and ending 3 months after the third anniversary date of the relevant certificate issued in respect of the ship.

(2) If, after having carried out an intermediate survey in respect of a regulated Hong Kong ship, the surveyor is satisfied that the equipment and arrangements of the ship:

(a) comply with the requirements under Annex VI or this Regulation (as may be applicable); and

(b) are in good working order, he shall make an endorsement to that effect on the relevant certificate issued in respect of the ship.

(3) If a regulated Hong Kong ship is installed with a relevant diesel engine or provided with any equipment to which section 27 applies, the intermediate survey of the ship, in so far as it relates to such engine or equipment, is to be conducted in accordance with the NOx Technical Code.

SECT 12

Annual surveys VerDate:01/06/2008

(1) Subject to subsection (2), an annual survey of a regulated Hong Kong ship is to be carried out by a surveyor within the period commencing 3 months before and ending 3 months after each anniversary date of the relevant certificate issued in respect of the ship.

(2) If an intermediate survey of a regulated Hong Kong ship has been carried out under section 11(1) by reference to an anniversary date, the annual survey of the ship by reference to the anniversary date is not required to be carried out.

(3) An annual survey of a regulated Hong Kong ship is to include a general inspection of the equipment, systems, fittings, arrangements and material of the ship.

(4) If, after having carried out an annual survey in respect of a regulated Hong Kong ship, the surveyor is satisfied that the equipment, systems, fittings, arrangements and material of the ship:

(a) have been maintained in accordance with the requirements under Annex VI or this Regulation (as may be applicable); and

(b) remain satisfactory for the service for which the ship is intended, he shall make an endorsement to that effect on the relevant certificate issued in respect of the ship.

(5) If a regulated Hong Kong ship is installed with a relevant diesel engine or provided with any equipment to which section 27 applies, the annual survey of the ship, in so far as it relates to such engine or equipment, is to be conducted in accordance with the NOx Technical Code.

SECT 13

Additional surveys VerDate:01/06/2008

(1) The Director may, by notice in writing to the company and the master of a regulated Hong Kong ship, require an additional survey of the ship to be carried out by a surveyor within a reasonable period specified by the Director if:

(a) after a relevant certificate has been issued in respect of the ship, alterations have been made to the equipment, systems, fittings, arrangements or material covered by the survey leading to the issue of the certificate;

(b) he has reasonable grounds to believe that, after a relevant certificate has been issued in respect of the ship, important repairs or renewals have been made to the ship;

(c) he has reasonable grounds to believe that section 35 is not complied with in respect of the ship; or

(d) he determines under section 38 that the survey is necessary.

(2) If a regulated Hong Kong ship is installed with a relevant diesel engine or provided with any equipment to which section 27 applies, the additional survey of the ship, in so far as it relates to such engine or equipment, if necessary, is to be conducted in accordance with the NOx Technical Code.

(3) The additional survey may either be general or partial as the Director thinks fit.

(4) On receiving a notice under subsection (1), the company and the master of the ship shall cause an additional survey to be carried out as required under that subsection.

(5) If, after having carried out an additional survey in respect of a regulated Hong Kong ship, the surveyor is satisfied that:

(a) the ship complies with the requirements of Annex VI or this Regulation (as may be applicable); and

(b) in the case where repairs or renewals have been made to the ship, whether subsection (1)(a), (b), (c) or (d) applies:

(i) such repairs or renewals have been effectively made; and

(ii) the materials used in, and the workmanship of, such repairs or renewals are satisfactory, he shall make a declaration of survey to the effect that he is so satisfied and forward the declaration of survey to the Director.

SECT 14

Duration of relevant certificates VerDate:01/06/2008

Division 3- Duration of Relevant Certificates issued in respect of Regulated Hong Kong Ships and Extension of their Validity Period

Subject to the provisions of this Division:

(a) an IAPP Certificate issued under section 7 is valid for such period as may be specified by the Director in the Certificate, being a period expiring within the 5 years from the date of completion of the initial survey or renewal survey (as may be applicable); and

(b) a HKAPP Certificate issued under section 8 is valid for such period as may be specified by the Director in the Certificate, being a period expiring within the 5 years from the date of completion of the initial survey or renewal survey (as may be applicable).

SECT 15

Duration of relevant certificates issued after renewal surveys VerDate:01/06/2008

(1) If a renewal survey is completed more than 3 months before the date of expiry of the existing relevant certificate in force in respect of a regulated Hong Kong ship, the new relevant certificate issued as a result of the survey is valid from the date of completion of the survey to a date as specified in the certificate, being a period expiring within the 5 years from the date of completion of the survey.

(2) If a renewal survey is completed within 3 months before the date of expiry of the existing relevant certificate in force in respect of a regulated Hong Kong ship, the new relevant certificate issued as a result of the survey is valid for a period as specified in the certificate, being a period expiring within the 5 years from the date of expiry of the existing relevant certificate.

(3) If a renewal survey is completed on or after the date of expiry of the existing relevant certificate in force in respect of a regulated Hong Kong ship, the new relevant certificate issued as a result of the survey is, subject to subsection (5), valid for a period as specified in the certificate, being a period expiring within the 5 years from the date of expiry of the existing relevant certificate.

(4) If the period of validity of an existing relevant certificate issued in respect of a regulated Hong Kong ship has been extended under section 19 or 20, the new relevant certificate issued in respect of the ship as a result of a renewal survey is, subject to subsection (5), valid for a period as specified in the certificate, being a period expiring within the 5 years from the date of expiry of the existing relevant certificate before the extension was granted.

(5) Where the Director considers appropriate in the special circumstances of the case, a new relevant certificate issued as a result of the renewal survey under subsection (3) or (4) is valid for a period as specified in the certificate, being a period expiring within the 5 years from the date of completion of the survey.

SECT 16

Duration of relevant certificates after early completion of surveys VerDate:01/06/2008

If an intermediate survey or annual survey in respect of a regulated Hong Kong ship is completed before the period specified in relation to it in section 11(1)(a) or (b) (as may be applicable) or 12(1) (as may be applicable), then:

(a) the anniversary date ascertained from the date of expiry in the existing relevant certificate is to be superseded by an endorsement to refer to another date as specified in the certificate, being a date within the 3 months from the date of completion of the survey;

(b) the subsequent survey required by section 11(1) or 12(1) (as may be applicable) is to be completed at the intervals provided under either section using the new anniversary date as may be specified by the Director based on the form entitled "Endorsement for Advancement of Anniversary Date where Regulation 9(8) applies" set out in Appendix I to Annex VI; and

(c) the date of expiry in the existing relevant certificate may remain unchanged if:

(i) one or more intermediate surveys are carried out so that the maximum intervals between an intermediate survey and an annual survey ascertained under section 11(1) and 12(1) are not exceeded; or

(ii) one or more annual surveys are carried out so that the maximum intervals between the annual surveys ascertained under section 12(1) are not exceeded.

SECT 17

Extension of validity period up to 5 years VerDate:01/06/2008

(1) Subject to subsection (2), if a relevant certificate issued in respect of a regulated Hong Kong ship is valid for a period of less than 5 years, the Director may, on the application of the company or the master of the ship, extend the period of validity of the certificate in such a way that it is not to be valid for more than 5 years.

(2) Subsection (1) applies if the survey under section 11 or 12 (as may be applicable) is to be carried out on the regulated Hong Kong ship as if the relevant certificate had been issued for a period of 5 years.

SECT 18

Extension of validity period where new relevant certificates cannot be issued, etc. before existing relevant certificates expire VerDate:01/06/2008

If, on an application under section 7(1) or 8(1) for a new relevant certificate in respect of a regulated Hong Kong ship, the Director is satisfied as to matters set out in section 7(3)(a)(ii) and (b) or 8(3)(a)(ii) and (b) (as may be applicable) but the new relevant certificate cannot be issued or placed on board the ship concerned before the date of expiry of the existing relevant certificate in force in respect of the ship, the Director may extend the period of validity of the existing relevant certificate for a further period not exceeding 5 months from the date of expiry of the existing relevant certificate.

SECT 19

Extension of validity period of relevant certificates where ships are not in ports in which ships are to be surveyed VerDate:01/06/2008

(1) If a relevant certificate issued in respect of a regulated Hong Kong ship expires when it is not in the port in which it is to be surveyed, the Director may, on the application of the company or the master of the ship, extend the period of validity of the relevant certificate for a period within 3 months from the date of expiry of the certificate.

(2) The Director shall not extend the period of validity of the certificate unless:

(a) he is satisfied that it is for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed; and

(b) he considers that it is proper and reasonable to do so.

(3) If the period of validity of a relevant certificate has been extended under this section, the certificate is, notwithstanding such extension, to expire when the ship completes its voyage to the port in which it is to be surveyed.

SECT 20

Extension of validity period of relevant certificates where ships are on short voyages
VerDate:01/06/2008

The Director may, on the application of the company or the master of a regulated Hong Kong ship, extend the period of validity of a relevant certificate issued in respect of the ship for a period not exceeding one month from the date of expiry of the certificate if:

- (a) the ship is engaged in short voyages; and
- (b) the period of validity of the certificate has not been extended under section 17(1) or 19(1).

SECT 21

Where relevant certificates cease to be valid VerDate:01/06/2008

A relevant certificate issued in respect of a regulated Hong Kong ship ceases to be valid if:

- (a) any survey is not carried out within the period specified in relation to it in Division 2;
- (b) the certificate is not endorsed in accordance with section 11 or 12 (as may be applicable); or
- (c) the ship is transferred to the registry of a place outside Hong Kong.

SECT 22

Withdrawal of International Air Pollution Prevention Certificates or Hong Kong Air Pollution Prevention Certificates VerDate:01/06/2008

Division 4- Withdrawal and Cancellation of International Air Pollution Prevention Certificates or Hong Kong Air Pollution Prevention Certificates

(1)Where, upon any survey (other than an initial survey) being carried out by any surveyor in respect of a regulated Hong Kong ship under Division 2, the surveyor determines that the condition of the ship in respect of which an International Air Pollution Prevention Certificate or a Hong Kong Air Pollution Prevention Certificate has been issued by the Director or a recognized organization, or its equipment, does not correspond substantially with the particulars in the Certificate, he shall require the company or the master of the ship to take the corrective action which is in his opinion necessary, and shall give notice to the Director.

(2)If the corrective action required under subsection (1) is not taken within the period specified by the surveyor, or in the absence of such specified period, within a reasonable period, he shall give notice to the Director.

(3)On receiving a notice under subsection (2), the Director may, by notice in writing to the company and the master of the regulated Hong Kong ship, withdraw the Certificate issued in respect of the ship.

(4)On receiving a notice under subsection (3), the company and the master of the ship concerned shall forthwith deliver to the Director the International Air Pollution Prevention Certificate or Hong Kong Air Pollution Prevention Certificate (as may be applicable) issued in respect of the ship.

(5)After a corrective action required under subsection (1) has been taken to the satisfaction of a surveyor, he shall give notice to the Director of that fact.

(6)On receiving a notice under subsection (5), the Director shall as soon as reasonably practicable return the Certificate previously withdrawn by him to the company of the ship concerned.

SECT 23

Cancellation of International Air Pollution Prevention Certificates or Hong Kong Air Pollution Prevention Certificates VerDate:01/06/2008

(1)The Director may, by notice in writing to the company and the master of a regulated Hong Kong ship, cancel an International Air Pollution Prevention Certificate or a Hong Kong Air Pollution Prevention Certificate issued by himself or a recognized organization in respect of the ship if he has reasonable grounds to believe that the Certificate was issued, or any endorsement on it was made, on the basis of false or erroneous information.

(2)The Director shall give reasons for cancelling the Certificate.

(3)On receiving a notice under subsection (1), the company and the master of the ship concerned shall forthwith deliver to the Director the Certificate issued in respect of the ship.

SECT 24

Emissions to which this Part does not apply VerDate:01/06/2008

PART 4

CONTROL OF AIR POLLUTION FROM SPECIFIED SHIPS

Division 1- General Exception to Part 4

(1)This Part does not apply to an emission that is necessary for the purpose of securing the safety of a ship or saving life at sea.

(2)This Part does not apply to an inevitable emission that results from any damage to a ship or its equipment unless the company or the master of the ship:

- (a) has acted with intent to cause damage to the ship or the equipment; or
- (b) has acted recklessly and with knowledge that such damage would probably result from his act.

(3)For the purposes of subsection (2), an inevitable emission that results from any damage to a ship or its equipment is an emission that results from such damage when, after the damage occurs or after the emission is discovered, all reasonable precautions have been taken to prevent or minimize the emission.

SECT 25

Control of deliberate emissions of ozone depleting substances VerDate:01/06/2008

Division 2- General Emission Control

(1)A specified ship is not to be engaged in deliberate emissions of ozone depleting substances.

(2)For the purposes of subsection (1), deliberate emissions include emissions occurring in the course of maintaining, servicing, repairing or disposing of systems or equipment, but do not include minimal releases associated with the recapture or recycling of an ozone depleting substance.

SECT 26

Control of ozone depleting substances VerDate:01/06/2008

(1) Subject to subsection (2), new installations on a specified ship are not to contain ozone depleting substances.

(2) New installations on a specified ship that contains hydrochlorofluorocarbons are permitted until 1 January 2020.

(3) If any ozone depleting substances or equipment consisting of such substances are removed from a specified ship, the substances or equipment are to be delivered to the appropriate reception facilities referred to in Annex VI.

(4) In this section, “new installations” means systems and equipment, including new portable fire-extinguishing units, insulation, or other material, installed on a specified ship after 19 May 2005, but does not include the repair or recharge of previously installed systems, equipment, insulation, or other material, or recharge of portable fire-extinguishing units.

SECT 27

Control of emission of nitrogen oxide VerDate:01/06/2008

(1) Subject to subsections (2), (3) and (4), a relevant diesel engine is not to be put into operation unless the on-board emission of nitrogen oxide from the engine is kept within the limits specified in regulation 13(3)(a) of Annex VI.

(2) Subsection (1) does not apply to:

(a) an emergency diesel engine, an engine installed in a lifeboat or any device or equipment intended to be used solely in case of emergency; or

(b) a diesel engine subject to an alternative nitrogen oxide control measure established by the Director, which is installed on a specified ship that is:

- (i) a Hong Kong ship or a ship registered in another place in the People's Republic of China; and
- (ii) solely engaged in non-international voyages.

(3) Subsection (1) does not apply to a relevant diesel engine if:

(a) the engine undergoes a major conversion before the commencement date and the specified ship on which the engine is installed:

- (i) is a Hong Kong ship or a ship registered in another place in the People's Republic of China; and
- (ii) is solely engaged in non-international voyages; or

(b) the specified ship on which the engine is installed:

- (i) is a Hong Kong ship or a ship registered in another place in the People's Republic of China;
- (ii) is solely engaged in non-international voyages; and
- (iii) is constructed before the commencement date.

(4) Subsection (1) does not apply to a relevant diesel engine if the following system or method has been applied to the engine to reduce on-board emission of nitrogen oxide at least to the limits specified in regulation 13(3)(a) of Annex VI:

- (a) in relation to a Hong Kong ship:

(i) an exhaust gas cleaning system approved by the Director in accordance with the NOx Technical Code; or

(ii) any other equivalent method approved by the Director after taking into account all relevant guidelines developed from time to time by IMO; or

(b) in relation to a non-Hong Kong ship:

(i) an exhaust gas cleaning system approved by the Administration in accordance with the NOx Technical Code; or

(ii) any other equivalent method approved by the Administration after taking into account all relevant guidelines developed from time to time by IMO.

(5) For the purposes of subsection (1), when fuel oil composed of blends from hydrocarbons derived from petroleum refining is used in a relevant diesel engine, the test procedures and measurement methods adopted for calculating the emission of nitrogen oxide from the engine are to comply with the NOx Technical Code, with the test cycles and weighting factors set out in Appendix II to Annex VI being taken into account.

(6) A relevant diesel engine to which this section applies is to comply with the standards applicable to it in the NOx Technical Code.

(7) After a relevant diesel engine to which this section applies undergoes a major conversion, the emission of nitrogen oxide resulting from such conversion is to be documented in accordance with the NOx Technical Code for approval by the Director.

SECT 28

Control of emission of volatile organic compounds VerDate:01/06/2008

(1) Where a Hong Kong tanker, being a specified ship, is within any designated port or terminal that is subject to control of emission of vapour, and a notification of such designation has been submitted to IMO pursuant to regulation 15(2) of Annex VI, the tanker is, subject to subsection (2):

(a) to be provided with a system for the collection of vapour approved by the Director after taking into account the safety standards developed from time to time by IMO; and

(b) to use such system during the loading of the cargoes specified in the notification.

(2) Where a Hong Kong tanker is to be involved in the loading at a port or terminal referred to in subsection (1) of the cargoes specified in the notification referred to in that subsection, the tanker is not required to comply with subsection (1)(a) and (b) within 3 years after the effective date specified in the notification if:

(a) a system for the control of emission of vapour has been installed at the port or terminal; and

(b) the operator of the port or terminal allows the tanker to use the system during the loading of the cargoes.

(3) Where a Hong Kong tanker is a gas carrier, this section only applies to the tanker when the type of loading and containment systems allow safe retention of non-methane volatile organic compounds on board or the safe return of such compounds ashore at the loading port.

(4) In this section

“chemical tanker” means:

(a) a ship constructed or adapted primarily to carry a cargo of noxious liquid substances in bulk; or

(b) an oil tanker when carrying a cargo or part cargo of noxious liquid substances in bulk;
“combination carrier” means a ship designed to carry either oil or solid cargoes in bulk;
“gas carrier” means a ship constructed or adapted for the carriage of any liquefied gas in bulk;
“Hong Kong tanker” means a tanker registered in Hong Kong;
“tanker” means an oil tanker being a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces, and includes a combination carrier or chemical tanker when carrying a cargo or part cargo of oil or noxious liquid substances in bulk.

SECT 29

General control on emission of sulphur oxide VerDate:01/06/2008

Division 3- Sulphur Oxide Emission Control

(1)The sulphur content of any fuel oil used on board a specified ship is not to exceed 4.5% m/m.

(2)Subsection (1) does not apply if the specified ship is:

(a) within a sulphur oxide emission control area referred to in regulation 14(3)(a) of Annex VI;
or

(b) within a sulphur oxide emission control area designated by IMO in accordance with Appendix III to the Annex.

(3)In this section, “m/m” means mass per mass.”m/m”

SECT 30

Requirements within sulphur oxide emission control areas VerDate:01/06/2008

(1)Subject to subsection (2), when a specified ship that is a Hong Kong ship is within a sulphur oxide emission control area described in section 29(2), the ship is to comply with the requirements specified in regulation 14(4), (5) and (6) of Annex VI.

(2)If the specified ship referred to in subsection (1) enters the sulphur oxide emission control area within the period of 12 months beginning on the date on which the control area is designated by IMO as such under regulation 14(3)(b) of Annex VI, the ship:

(a) is not required to comply with regulation 14(4) and (6) of the Annex; and

(b) is not required to comply with regulation 14(5) of the Annex in so far as it relates to regulation 14(4)(a) of the Annex.

SECT 31

Shipboard incineration within and outside waters of Hong Kong VerDate:01/06/2008

Division 4- Shipboard Incineration

(1) Shipboard incineration is not to take place on board a specified ship that is a Hong Kong ship outside the waters of Hong Kong unless:

- (a) the substance for incineration is other than those specified in regulation 16(4) of Annex VI;
- (b) the incineration is conducted in a shipboard incinerator and, if the incinerator is installed on the ship on or after 1 January 2000, the requirements under section 32 are complied with;
- (c) where the substance for shipboard incineration is sewage sludge or sludge oil generated during the normal operation of the ship, the incineration takes place in the main or auxiliary power plant or boilers while the ship is not inside a port, harbour or estuary; and
- (d) where the substance for shipboard incineration is polyvinyl chlorides, the incineration is conducted in a shipboard incinerator in respect of which an IMO Type Approval Certificate has been issued.

(2) Shipboard incineration is not to take place on board a specified ship within the waters of Hong Kong unless:

- (a) the substance for incineration is other than those specified in regulation 16(4) of Annex VI;
- (b) the incineration is conducted in a shipboard incinerator and, if the incinerator is installed on the ship on or after 1 January 2000, the requirements under section 32 are complied with;
- (c) where the substance for shipboard incineration is sewage sludge or sludge oil generated during the normal operation of the ship, the incineration takes place in the main or auxiliary power plant or boilers while the ship is not inside a port, harbour or estuary; and
- (d) the incineration is conducted in a shipboard incinerator in respect of which an IMO Type Approval Certificate has been issued.

(3) In this section:

“IMO Type Approval Certificate” means the Certificate of Shipboard Incinerator certifying that a shipboard incinerator has been examined and tested in accordance with the document entitled “Standard Specification for Shipboard Incinerators” adopted by the IMO resolution MEPC. 76(40) on 25 September 1997, as from time to time revised or amended by the revision or amendment that applies to Hong Kong;

“sewage sludge” means the sediment of sewage;

“shipboard incineration” means the incineration of waste or other matter on board a specified ship, where such waste or other matter has been generated during the normal operation of the ship;

“sludge oil” means sludge from the fuel or lubricating oil separators, waste lubricating oil from main or auxiliary machinery, or waste oil from bilge water separators, oil filtering equipment or drip trays.

SECT 32

Shipboard incinerator and its operation VerDate:01/06/2008

(1) Subject to subsection (2), a shipboard incinerator installed on a specified ship on or after 1 January 2000 is to comply with the requirements contained in Appendix IV to Annex VI.

(2) An operating manual:

- (a) issued by the manufacturer of a shipboard incinerator to which this section applies; and

(b) provides guidance on how the incinerator may be operated within the limits described in paragraph 2 of Appendix IV to Annex VI, is to be kept on board a specified ship.

(3) A person responsible for the operation of the incinerator to which this section applies is to be trained in such a way as to be capable of implementing the guidance provided in the operating manual referred to in subsection (2).

(4) The temperature of the flue gas outlet of the incinerator concerned during combustion is to be monitored at all times.

(5) If the incinerator concerned is a continuous-feed shipboard incinerator, waste is not to be fed into it when the temperature is below 850°C.

(6) If the incinerator concerned is a batch-loaded shipboard incinerator, it is to be so designed that the temperature in its combustion chamber will reach 600°C within 5 minutes after it is started up.

(7) In this section:

“batch-loaded” means the loading of waste in separate batches as may be required;

“continuous-feed” means the process during which waste is fed into a combustion chamber without human assistance while a shipboard incinerator is in normal operating conditions with the combustion chamber operative temperature kept between 850°C and 1200°C.

SECT 33

Control of fuel oil quality VerDate:01/06/2008

Division 5- Control of Fuel Oil Quality

(1) This section applies to all specified ships except the specified ships that use:

- (a) coal in its solid form; or
- (b) nuclear fuels.

(2) Fuel oil used on board a specified ship to which this section applies is to comply with the requirements set out in regulation 18(1) of Annex VI.

(3) A local supplier shall, in respect of fuel oil delivered by him to be used on board a regulated ship:

(a) prepare a bunker delivery note which contains at least the information as specified in Appendix V to Annex VI;

(b) procure his representative to sign and certify a declaration in the bunker delivery note to confirm that the fuel oil delivered complies with regulations 14(1) or (4)(a) (as may be applicable) and 18(1) of the Annex;

(c) seal a representative sample of the fuel oil delivered and sign the label attached to the sample on completion of the bunkering operation to confirm that it is a true sample of the fuel oil delivered;

(d) deliver to the officer in charge of the bunkering operation or the master of the ship the bunker delivery note and the representative sample of the fuel oil delivered;

(e) keep a copy of the bunker delivery note for a period of 3 years after the day on which the fuel oil is delivered to the ship; and

- (f) make the copy kept under paragraph (e) available for inspection at all reasonable times.

(4) The company and the master of a regulated ship shall:

- (a) on completion of a bunkering operation, ensure that the label attached to the representative sample of the fuel oil delivered is signed by the officer in charge of the operation or by the master himself;

- (b) keep the bunker delivery note on board the ship in a place so as to be readily available for inspection at all reasonable times for a period of 3 years after the day on which the fuel oil is delivered to the ship; and

- (c) retain the representative sample of the fuel oil that accompanies the bunker delivery note until the fuel oil is substantially consumed and, in any event, until the expiry of the period of 12 months from the day on which the fuel oil is delivered to the ship, inclusive of the day of delivery.

(5) Notwithstanding subsection (4) and without limiting the generality of section 41, the Director may exempt the company and the master of a regulated ship from complying with any of the requirements under that subsection if the ship is solely engaged in non-international voyages.

SECT 34

Power of Government surveyors to inspect bunker delivery notes, etc. VerDate:01/06/2008

A Government surveyor may, for the purpose of controlling the quality of fuel oil, do one or more of the following:

- (a) require a company or the master of a regulated ship to provide for inspection:
 - (i) a bunker delivery note required under section 33; or
 - (ii) where applicable, the representative sample of the fuel oil that accompanies the bunker delivery note referred to in subparagraph (i);

- (b) make a copy of the bunker delivery note;

- (c) require the master or any other officer in charge of the ship to certify that the copy made under paragraph (b) is a true copy of the bunker delivery note.

SECT 35

Duty to maintain condition of regulated Hong Kong ships VerDate:01/06/2008

PART 5

OTHER MEASURES TO IMPLEMENT ANNEX VI

The condition of a regulated Hong Kong ship in respect of which a relevant certificate has been issued, and its equipment, are to be maintained so as to comply with the requirements under Annex VI or this Regulation (as may be applicable) to ensure that the ship remains fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.

SECT 36

Alterations to regulated Hong Kong ships subject to approval of Director VerDate:01/06/2008

Where any alteration is to be made to the equipment, systems, fittings, arrangements or material of a regulated Hong Kong ship covered by the survey leading to the issue or endorsement of a relevant certificate, such alteration is subject to the prior approval of the Director.

SECT 37

Duty to keep certain certificates on regulated ships VerDate:01/06/2008

An International Air Pollution Prevention Certificate or a Hong Kong Air Pollution Prevention Certificate that is issued in respect of a regulated ship and is for the time being in force is to be kept on board the ship and is to be made available for inspection by a Government surveyor at all reasonable times.

SECT 38

Duty to report VerDate:01/06/2008

(1) Where an accident occurs to, or a defect is discovered in, a specified ship, and the accident or defect substantially affects the efficiency or completeness of the equipment of the ship, the company and the master of the ship shall:

(a) where the ship is within the waters of Hong Kong, immediately report the accident or defect to the Director; or

(b) where the ship is a Hong Kong ship that is in a port of any Convention country outside Hong Kong, immediately report the accident or defect to the Director and the appropriate authority of that country.

(2) On receiving a report under subsection (1)(a), the Director may cause an investigation to be initiated for the purpose of determining whether any additional survey under section 13 is necessary.

SECT 39

Power of Government surveyors to inspect VerDate:01/06/2008

(1) A specified ship is to be subject to an inspection by a Government surveyor if it is within the waters of Hong Kong.

(2) If any such inspection reveals any deficiencies, the Government surveyor may take appropriate steps to ensure that the specified ship does not proceed to sea until the situation has been rectified in accordance with the requirements of Annex VI or this Regulation (as may be applicable).

SECT 40

Offences and penalties VerDate:01/06/2008

PART 6

OFFENCES AND PENALTIES

(1) If section 3(1), 5(1), 13(4), 22(4), 23(3), 33(4) or 38(1) is contravened, the company and the master of the ship concerned each commits an offence and is liable:

(a) on conviction upon indictment, to a fine at level 6;

(b) on summary conviction, to a fine at level 3.

(2) If in respect of a specified ship there is a contravention of any requirements under section 25(1), 26(1) or (3), 27(1), (6) or (7), 28(1), 29(1), 30(1), 31(1) or (2), 32(1), (2), (3), (4), (5) or (6), 33(2), 35, 36 or 37, the company and the master of the ship concerned each commits an offence and is liable:

(a) on conviction upon indictment, to a fine at level 6;

(b) on summary conviction, to a fine at level 3.

(3) If section 33(3) is contravened, the local supplier concerned commits an offence and is liable:

(a) on conviction upon indictment, to a fine at level 6;

(b) on summary conviction, to a fine at level 3.

(4) In any proceedings for an offence under this Regulation, it is a defence for the person charged to show that he had taken all reasonable steps to prevent the commission of the offence.

(5) Where an offence under this section is committed, or would, save for the operation of subsection (4), have been committed, by the company and the master of the ship concerned due to the act or omission of any other person, that other person may also be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the company and the master of the ship.

SECT 41

Exemption VerDate:01/06/2008

PART 7

MISCELLANEOUS

The Director may exempt any specified ship or class or description of specified ships from any of the requirements of this Regulation on such conditions as he may specify, and he may alter or cancel any such exemption.

SECT 42

Equivalents VerDate:01/06/2008

Where this Regulation requires a particular fitting, material, appliance or apparatus to be fitted in a specified ship, the Director may allow any other fitting, material, appliance or apparatus to be fitted in the ship if he is satisfied that such fitting, material, appliance or apparatus is at least as effective as that required by this Regulation.

- SECT 43

Access to Annex VI and NOx Technical Code VerDate:01/06/2008

The Director shall:

(a) keep a copy of the English and Chinese texts of Annex VI and NOx Technical Code at his office; and

(b) allow the public to inspect such texts free of charge at the office during normal business hours.

SECT 44

Appointment of Government surveyors VerDate:01/06/2008

The Director may appoint a person to be a Government surveyor for the purposes of this Regulation.

SECT 45

Director may request Convention countries to survey regulated Hong Kong ships and issue or endorse International Air Pollution Prevention Certificates VerDate:01/06/2008

(1)The Director may request any Convention country:

(a) to carry out a survey in respect of a regulated Hong Kong ship on his behalf in conformity with Annex VI; and

(b) to issue an International Air Pollution Prevention Certificate in respect of the ship, or to make endorsements on the Certificate issued in respect of the ship, on his behalf in conformity with the Annex.

(2)For the purposes of this Regulation, an endorsement made on an International Air Pollution Prevention Certificate by any Convention country on behalf of the Director in conformity with Annex VI has the same effect as an endorsement made by the Director under this Regulation.

SECT 46

Director may recognize organizations to survey regulated Hong Kong ships and issue certain certificates, etc. VerDate:01/06/2008

The Director may recognize an organization for the purposes of:

(a) surveying regulated Hong Kong ships in conformity with Annex VI or in compliance with this Regulation (as may be applicable);

(b) issuing International Air Pollution Prevention Certificates in respect of those ships in conformity with the Annex;

(c) making endorsements on International Air Pollution Prevention Certificates issued by the organization in respect of those ships in conformity with the Annex;

(d) issuing Hong Kong Air Pollution Prevention Certificates in respect of those ships in compliance with the requirements under this Regulation;

(e) making endorsements on Hong Kong Air Pollution Prevention Certificates issued by the organization in respect of those ships in compliance with the requirements under this Regulation;

(f) granting extensions, with the prior consent of the Director, of validity period of International Air Pollution Prevention Certificates or Hong Kong Air Pollution Prevention Certificates issued by the organization;

- (g) altering any particulars contained in International Air Pollution Prevention Certificates or Hong Kong Air Pollution Prevention Certificates issued by the organization; and
- (h) issuing certified true copies of International Air Pollution Prevention Certificates or Hong Kong Air Pollution Prevention Certificates issued by the organization.

SECT 47

Director may at request of Convention countries to survey non-Hong Kong ships and issue IAPP Certificates VerDate:01/06/2008

The Director may, at the request of any Convention country, exercise any of his powers under Divisions 1, 2 and 3 of Part 3 in respect of a regulated ship that is a non-Hong Kong ship while it is within the waters of Hong Kong, and the provisions of those Divisions apply accordingly.

SECT 48

Form of relevant certificates VerDate:01/06/2008

(1) Subject to subsection (2), the Director may specify the form of a relevant certificate issued in respect of a regulated Hong Kong ship.

(2) An IAPP Certificate specified by the Director under subsection

(1) is to be in accordance with the form entitled “International Air Pollution Prevention Certificate” set out in Appendix I to Annex VI.

SECT 49

Alteration made to relevant certificates VerDate:01/06/2008

(1) The company of a regulated Hong Kong ship in respect of which a relevant certificate has been issued by the Director may request the Director to alter any particulars contained in the certificate.

(2) The Director may refuse to make the alteration requested if he considers it to be a material alteration.

(3) If the Director agrees to make the alteration, he shall, upon payment of the prescribed fee in relation to the alteration, alter the relevant certificate accordingly.

SECT 50

Certified true copies of relevant certificates VerDate:01/06/2008

(1) The company of a regulated Hong Kong ship in respect of which a relevant certificate has been issued by the Director may apply to the Director for the issue of a certified true copy of the certificate.

(2) An application under subsection (1) is to be accompanied by the prescribed fee in relation to the issue of a certified true copy of the relevant certificate.