



# TUVALU SHIP REGISTRY

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## MARINE CIRCULAR

### MC-3/2016/1

11/2021

**FOR:** Ship Owners, Ship Managers, Ship Operators, Ship Masters, Ship Officers, Classification Societies

**SUBJECT: BALLAST WATER MANAGEMENT CONVENTION**

#### DEFINITIONS:

The following abbreviations stand for:

- “BWMC” – International Convention for the Control and Management of Ships Ballast Water and Sediments, 2004
- “BWE” – Ballast Water Exchange
- “BWM” – Ballast Water Management
- “BWRB” – Ballast Water Record Book
- “BWMP” – Ballast Water Management Plan
- “BWMS” – Ballast Water Management System
- “BWMSC” – Code for Approval of Ballast Water Management Systems
- “IBWMC” – International Ballast Water Management Certificate
- “IOPPC” – International Oil Pollution Prevention Certificate
- “EIF” – Entry Into Force
- “GT” – Gross Tonnage in accordance to ITC 69
- “ITC 69” – International Convention on the Tonnage Measurement of Ships, 1969
- “MARPOL” – International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978
- “SOLAS” – International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended
- “IMO” – International Maritime Organization
- “MEPC” – Marine Environment and Protection Committee (IMO)
- “RO” – Recognized Organization as defined by IMO Resolution A.789 (19).
- “FPSO” – Floating Production Storage Offloading Unit
- “FSU” – Floating Storage Unit
- “MODU” – Mobile Offshore Drilling Unit
- “MOU” – Mobile Offshore Unit
- “OSV” – Offshore Support Vessel
- “PSC” – Port State Control

The following terms shall mean:

- “Administration” means the Tuvalu Ship Registry;
- “Ballast Water” means water with its suspended matter taken on board a ship to control trim, list, draught, stability or stresses of a ship;
- “Ballast Water Management” means mechanical, physical, chemical, and biological processes, either singularly or in combination, to remove, render harmless, or avoid the uptake or discharge of Harmful Aquatic Organisms and Pathogens within Ballast Water and Sediments;
- “Harmful Aquatic Organisms and Pathogens” means aquatic organisms or pathogens which, if introduced into the sea including estuaries, or into fresh water courses, may create hazards to the environment, human health, property or resources, impair biological diversity or interfere with other legitimate uses of such areas.
- “Sediments” means matters settled out of ballast water within a ship

- "Ship" means a vessel of any type whatsoever operating in the aquatic environment and includes submersibles, floating craft, floating platforms, FSUs and FPSOs.

#### **PURPOSE:**

This circular serves to provide the requirements for the implementation of the BWMC which has entered into force on 8<sup>th</sup> September 2017 and revokes the earlier version of this circular as well as MC-2/2017/1.

#### **REFERENCES:**

- (a) BWMC as amended, International Convention for the Control and Management of Ships Ballast Water and Sediments, 2004.
- (b) IMO Resolution MEPC.163(56) as amended, Guidelines for ballast water exchange in the Antarctic treaty area.
- (c) IMO Resolution MEPC.173(58) as amended, Guidelines for Ballast Water Sampling (G2).
- (d) IMO Resolution, MEPC.123(53) as amended, Guidelines for ballast water management equivalent compliance (G3).
- (e) IMO Resolution MEPC.127(53) as amended, Guidelines for ballast water management and development of ballast water management plans (G4).
- (f) IMO Resolution MEPC.287(71) as amended, Implementation of the BWM Convention.
- (g) IMO Resolution MEPC.288(71) as amended, 2017 Guidelines for Ballast Water Exchange (G6).
- (h) IMO Resolution MEPC.289(71) as amended, 2017 Guidelines for risk assessment under regulation A-4 of the BWM Convention (G7).
- (i) IMO Resolution MEPC.279(70) as amended, Guidelines for approval of Ballast Water Management Systems (G8).
- (j) IMO Resolution MEPC.300 (72) as amended, Code for approval of ballast water management systems (BWMS Code).
- (k) BWM.2/Circ.42 as amended, Guidance on ballast water sampling and analysis for trial use in accordance with the BWM Convention and Guidelines (G2).
- (l) IMO Circular, BWM.2/Circ.52 as amended, Guidance on entry or re-entry of ships into exclusive operation within waters under the jurisdiction of a single Party.
- (m) IMO Circular Letter No.3771, Amendments to the Ballast Water Management Convention.
- (n) BWM.2/Circ.62 as amended, Guidance on contingency measures under the BWM Convention.
- (o) BWM.2/Circ.70 as amended, 2020 Guidance for the commissioning testing of ballast water management systems.

#### **BACKGROUND:**

The BWMC was adopted by IMO in 2004 with the aim to prevent, minimize and ultimately eliminate the detrimental effects of harmful aquatic organisms and pathogens to the marine ecosystems caused by the transfer of ship's ballast water from one region to another in the maritime environment.

The BWMC requires all ships trading internationally to manage and control their ballast water and sediments within recommended standards and maintain a ship-specific BWMP which includes record keeping and reporting.

The requirement for EIF of the BWMC was met when Finland ratified to the BWMC on 08 September 2016, therefore leading to the BWMC to enter into force on 08 September 2017.

## APPLICATION:

1. This circular applies to all Tuvalu flagged ships operating in the aquatic environment, and includes submersibles, floating craft, floating platforms, FSUs and FPSOs.
2. The BWMC does not apply to:
  - 2.1. ships not designed or constructed to carry ballast water;
  - 2.2. ships of a Party which only operate in waters under the jurisdiction of that Party, unless the Party determines that the discharge of Ballast Water from such ships would impair or damage their environment, human health, property or resources, or those of adjacent or other States;
  - 2.3. ships of a Party which only operate in waters under the jurisdiction of another Party, subject to the authorization of the latter Party for such exclusion. No Party shall grant such authorization if doing so would impair or damage their environment, human health, property or resources, or those of adjacent or other States. Any Party not granting such authorization shall notify the Administration of the ship concerned that the BWMC applies to such ship;
  - 2.4. ships which only operate in waters under the jurisdiction of one Party and on the high seas, except for ships not granted an authorization pursuant to paragraph 2.3 above, unless such Party determines that the discharge of Ballast Water from such ships would impair or damage their environment, human health, property or resources, or those adjacent of other States;
  - 2.5. any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service. However, each Party shall ensure, by the adoption of appropriate measures not impairing operations or operational capabilities of such ships owned or operated by it, that such ships act in a manner consistent, so far as is reasonable and practicable, with the BWMC; and
  - 2.6. permanent Ballast Water in sealed tanks on ships, that is not subject to discharge.
3. Exemptions (Regulation A-4)

On a case-by-case basis, the Administration may grant exemptions to Regulation B-3 or C-1 in accordance with Regulation A-4 from the BWMC requirements to ships operating in waters under the jurisdiction of Tuvalu that:

  - 3.1. are engaged on a voyage or voyages between specified ports or locations
  - 3.2. are operating exclusively between specified ports or locations
  - 3.3. do not mix ballast water or sediments other than between the ports or locations specified in the above paragraphs 3.1 and 3.2.
  - 3.4. Such exemptions are to take into consideration IMO Resolution MEPC.289(71) as amended.
  - 3.5. Any exemptions granted under this regulation shall be recorded in the Ballast Water Record Book.
4. Exceptions:

Refer to Regulation A-3 for exceptions, including those for:

  - 4.1. Ensuring the safety of the ship in emergency situations;
  - 4.2. Accidental damage to the ship;
  - 4.3. The purpose of avoiding or minimizing pollution;
  - 4.4. Uptake and discharge on the high seas of the same ballast water and sediments; or
  - 4.5. Discharge of ballast water and sediments from a ship at the same location where the ballast water originated, providing that no mixing with unmanaged ballast water and sediments from other areas has occurred.
5. Equivalent Compliance:

Yachts used solely for leisure or crafts used primarily for search and rescue, less than 50 meters in length, and with a maximum ballast water capacity of eight (8) cubic meters may satisfy the requirements of Regulation A-5 by applying the guidelines of IMO Resolution MEPC.123(53) as amended.

## **CONTENTS:**

### **6. BWM Requirements for Ships (Regulation B-3)**

Each ship is required to employ one (1) of the following BWM practices in accordance with the Convention implementation schedule:

- 6.1. BWE to comply Regulation D-1 standard - Ship-specific procedures for conducting BWE, are to take into consideration IMO Resolution MEPC.288(71) as amended.
- 6.2. BWMS to comply Regulation D-2 standard.
- 6.3. Discharge ballast water to a reception facility designed in accordance with the requirements and guidelines developed by the IMO for such facilities; or
- 6.4. Other methods of BWM that may be accepted as alternatives and that provide the same level of protection to the environment, human health, property, or resources and are approved in principle by the MEPC.

### **7. Implementation Schedule for D-2**

Upon EIF of BWMC, ships are to be provided with a BWMS that comply with at least Regulation D-1 (*BWE Standard*) until the compliance date for Regulation D-2 (*BWMS Standard*). The Installation schedule for BWMS for compliance with applicable regulations can be found below:

- 7.1. Ships constructed (Keel Laid) on or after 8<sup>th</sup> Sept 2017 shall comply with Regulation D-2 upon delivery.
- 7.2. Ships (Keel Laid) before 8<sup>th</sup> Sept 2017 and delivered after that date will need to comply with Regulation D-2 at the First IOPP Renewal Survey after delivery.
- 7.3. Existing ships shall comply with Regulation D-2 on:
  - 7.3.1. First IOPP Renewal Survey after 8<sup>th</sup> Sept 2019; or
  - 7.3.2. First IOPP Renewal Survey after 8<sup>th</sup> Sept 2017 **IF** an IOPP Renewal Survey is completed between 8<sup>th</sup> Sept 2014 and 7<sup>th</sup> Sept 2017; or
  - 7.3.3. Second IOPP Renewal Survey after 8<sup>th</sup> Sept 2017 **IF** the First IOPP Renewal Survey after 8<sup>th</sup> Sept 2017 is completed before 8<sup>th</sup> Sept 2019 (this is on condition that no IOPP Renewal Survey was carried out between 8<sup>th</sup> Sept 2014 and 7<sup>th</sup> Sept 2017).
  - 7.3.4. Existing ships below 400 GT (or Oil Tankers below 150 GT), in which IOPP Renewal Survey does not apply, shall comply with Regulation D-2 no later than 8<sup>th</sup> Sept 2024.

### **8. Ballast Water Management Plan (Regulation B-1)**

- 8.1. Each ship is to have a ship-specific BWMP, in an approved form on board, and implemented by a qualified officer (Regulation B-1.5).
- 8.2. The BWMP shall:
  - 8.2.1. be approved by an authorised RO
  - 8.2.2. take into account IMO Resolution MEPC.127 (53) as amended – Note: IMO Assembly Resolution A.868(20) as amended, Guidelines for the Control and Management of Ships' Ballast Water to Minimize the Transfer of Harmful Aquatic Organisms and Pathogens, has not been revoked by IMO Resolution MEPC 127(53) as amended. MEPC 63 agreed that while the Guidelines adopted after 2004 for the uniform implementation of the BWMC have effectively superseded the Guidelines adopted by IMO Assembly Resolution

A.868(20) as amended, for practical reasons, the BWMPs, approved in accordance with IMO Assembly Resolution A.868(20) as amended, should remain valid until the BWMP requires revision due to the installation of a BWMS.

8.2.3. take into account IMO Circular BWM.2/Circ.62 as amended, *Guidance on contingency measures under the BWM Convention*, where it is recommended that the BWMP shall include contingency measures.

8.2.4. take into account Regulation B-5.1, which requires that all ships remove and dispose of sediments from spaces designated to carry ballast water.

8.3. For ships operating in Antarctic waters, the problems of BWE in cold environments and in Antarctic conditions should be considered IMO Resolution MEPC.163(56) as amended when developing their BWMPs.

## 9. Ballast Water Record Book (Regulation B-2)

9.1. All ships to which the BWMC applies shall maintain on board a BWRB to record each ballast water operation, including discharges at sea, to reception facilities (B-3.6), and cases of exemptions (A-4), exceptions, and accidental discharges (A-3).

9.2. The BWRB:

9.2.1. shall at least contain the information specified in Appendix II of the BWMC and may be kept in electronic format;

9.2.2. shall fully record each operation concerning ballast water without delay. And each entry shall be signed by the officer in charge of the operation concerned and each completed page shall be signed by the master. The entries in the BWRB shall be in a working language of the ship;

9.2.3. shall be readily available for inspection at all reasonable times, and kept on a towing ship in the case of an unmanned ship under tow; and

9.2.4. entries are to be maintained on board the ship for a minimum of two (2) years after the last entry has been made and thereafter in the Company's control for an additional minimum period of three (3) years.

## 10. Type Approved BWMS

10.1. Ship operators must take into account the specific application for which the BWMS is approved (e.g. for specific ballast water capacities, flow rates, salinity or temperature regimes, or other limiting operating conditions or circumstances as appropriate) when choosing a BWMS for a particular ship.

10.2. All BWMS shall be approved and certified as meeting the applicable IMO instruments. The Administration requires that all BWMS hold Class Type Approval Certificate issued by an authorized RO and shall accept the installation of BWMS on Tuvalu flagged ships that have been either approved by an authorized RO, or approved by other Flag Administrations in which case the approval in D-3 of the BWMC shall be evidenced by the issuance of the IBWMC.

10.3. All BWMS installed on ships shall be approved and certified in accordance with the IMO Resolution MEPC.300 (72) as amended.

## 11. Commissioning Testing of BWMS:

11.1. Commissioning Testing of BWMS shall be carried out in accordance with the latest BWM.2/Circ.70 guidance as amended.

11.2. In the event where commissioning testing cannot be completed immediately following the BWMS installation, or where test results are considered erratic or out of expected range, the RO shall work in consultation with the manufacturer of the BWMS and the ship owner to provide recommendations to ensure compliance as far as practicable, and to implement alternative measures during the interim period to mitigate the effect of non-compliance of the BWMS.

## 12. Survey and Certification Requirements

- 12.1. Ships of 400 GT and above to which the IBWMC applies, excluding floating platforms, FSUs and FPSOs, shall be subject to the surveys specified in Regulation E-1 and satisfactory completion of the surveys shall entitle a ship to be issued an IBWMC in accordance to Regulation E-2.
- 12.2. However, it should be noted that the IBWMC's definition of ships do not exclude ships of less than 400 GT (e.g. pleasure yachts, OSVs, etc.), including floating platforms, FSUs and FPSOs, and as such, the Administration is of the opinion that these ships shall also undergo survey and certification in accordance with Regulation E-1 paragraph 2, and shall be guided as:
  - 12.2.1. Pleasure yachts requirements shall be assessed on a case-to-case basis in consultation with the Administration, taking into consideration IMO Resolution MEPC.123(53) as amended.
  - 12.2.2. OSV survey and certification should generally follow section E of the IBWMC, taking into consideration IMO Circulars BWM.2/Circ.44 as amended, Options for ballast water management for OSVs in accordance with the IBWMC and BWM.2/Circ.52 as amended, Guidance on entry or re-entry of ships into exclusive operation within waters under the jurisdiction of a single Party.
  - 12.2.3. Ships that are not pleasure yachts or OSVs may also apply the optional methods of compliance laid out in BWM.2/Circ.44 as amended and shall undergo survey and certification generally following section E of the IBWMC.
  - 12.2.4. Floating platforms (including MOUs and MODUs), FSUs, and FPSOs will need to hold an IBWMC after successful survey in accordance with Regulations E1 and E-2 except where Section 12.3.2 of this circular applies.
- 12.3. In accordance to Section 12.2 above, all ships will need to be issued with an IBWMC by the Administration, except in the case of:
  - 12.3.1. floating platforms (including MOUs and MODUs), FSUs, and FPSOs, where the operator should consult the coastal State in which the unit is operating to establish survey and certification requirements since the "Administration" that issues the IBWMC is defined as the Government of the coastal State concerned. If requested by the government of the coastal State, the Administration may survey and issue the IBWMC to the ship in accordance with Regulation E-3.
  - 12.3.2. floating platforms (including MOUs and MODUs), FSUs, and FPSOs that operate exclusively within waters under the jurisdiction of a single Party where IMO Circular BWM.2/Circ.52 as amended should be applied in re-positioning and dry-docking voyages.
  - 12.3.3. ships utilizing equivalent compliance set out in Regulation A-5.

### **13. De-harmonization & Re-harmonization of IOPP Renewal Survey**

#### 13.1. De-harmonization:

- 13.1.1. In accordance to the old implementation schedule stated in IMO Resolution A.1088(28) as amended, existing ships with keel laid before the 8<sup>th</sup> September 2017 were required to comply to the D-2 performance standard by the 1<sup>st</sup> IOPP renewal survey after 8<sup>th</sup> September 2017 which caused some ship operators to request for the de-harmonization of the IOPP renewal survey from the other statutory surveys and certificates before 8<sup>th</sup> September 2017 so as not to trigger D-2 compliance.
- 13.1.2. The de-harmonization requests is viewed as a positive step allowing time for ship operators to achieve D-2 compliance, and as such, no special authorization is required to advance the IOPP renewal survey before 8<sup>th</sup> September 2017, or to issue the new IOPP certificate that is not dated from the date of expiry of the existing IOPP certificate. In all cases, the validity of the new IOPP certificate shall not exceed five (5) years from the date of completion of the IOPP renewal survey. The advance IOPP renewal survey may be conducted afloat on condition that all the applicable requirements of the IOPP renewal survey are complied with.

#### 13.2. Re-harmonization:

Where the IOPP Certificate is to be re-harmonized in order to take advantage of the dates for compliance with D-2 emanating from IMO Circular No.3771 as amended, then a further IOPP renewal survey should be carried out and the IOPP certificate shall be assigned with a validity date which aligns with the other statutory certificates. In all cases, the validity of the new IOPP certificate should not exceed five (5) years from the date of completion of the IOPP renewal survey.

#### 14. Training

14.1. Training and familiarization of the ship's crew is essential in the management of ballast water and sediments. Officers and crew must be familiar with their duties in implementing the BWM of the ship on which they serve, and be instructed in the requirements of:

- 14.1.1. the BWMC;
- 14.1.2. the implementation of the BWMP;
- 14.1.3. BWE and sediment management procedures;
- 14.1.4. the BWRB; and
- 14.1.5. any system limitations of the BWMS (found on the Class Type Approval Certificate) and training for the BWMS operations and maintenance.

#### 15. Port State Control

15.1. The PSC of any Party to the BWMC may carry out inspections in accordance with Article 9 of the BWMC, taking into consideration IMO Resolution MEPC.252(67) as amended, *Guidelines for Port State Control Under the BWM Convention*, which establishes a four (4)-stage inspection procedure:

- 15.1.1. **Stage one:** initial inspection to focus on documentation and nominated, trained ship's officer for ballast water management on board the ship;
- 15.1.2. **Stage two:** more detailed inspection - an operational check of the BWMS;
- 15.1.3. **Stage three:** sampling by indicative analysis to determine if the D-2 standard is being met; and
- 15.1.4. **Stage four:** detailed analysis, if necessary, to verify compliance with the D-2 standard.

A sampling of the ship's ballast water by PSC is to be representative of the whole discharge. As such, the designated officer specified in the BWMP has to be familiar with the inspection process, including how to facilitate the inspection and sampling processes, and witnessing such, as appropriate. Additional guidance and general recommendations on methodologies and approaches to sampling and analysis are provided in IMO Resolution MEPC.173(58) as amended, *Guidelines for Ballast Water Sampling (G2)* and IMO Circular BWM2/Circ.42 as amended, *Guidance on Ballast Water Sampling and Analysis for Trial Use in accordance with the BWM Convention and Guidelines (G2)*.

15.2. IMO has implemented a Trial Period for Sampling and Analysis of two (2) to three (3) years during which ships will not be penalized for exceedance of the D-2 standard provided that:

- 15.2.1. the BWMS is approved in accordance with Regulation D-3;
- 15.2.2. the BWMS has been installed correctly and maintained in accordance with the manufacturer's instructions;
- 15.2.3. the approved BWMP has been followed, including the operational instructions and the manufacturer's specifications for the BWMS; and
- 15.2.4. the self-monitoring system of the BWMS indicates that the treatment process is working properly.

15.3. PSC officers may inspect the BWRB on board while the ship is in its port or offshore terminal, and may make a copy of any entry, and require the Master to certify that the copy is a true copy.

15.4. PSC officers and ships are to be guided by IMO Circular BWM.2/Circ.62 as amended, *Guidance on contingency measures under the BWM Convention*, in situations where a ship is unable to manage its ballast water as required.

## 16. Miscellaneous

### 16.1. Special Requirements in Certain Areas

Under Regulation C-1, Parties to the BWMC may take additional measures consistent with international law necessary to prevent, reduce, or eliminate the transfer of harmful aquatic organisms and pathogens. All Tuvalu flagged ships are required to meet these standards (if any).

### 16.2. Coastal State Requirements

Coastal States may impose unique requirements for BWM and all Tuvalu flagged ships entering the jurisdiction of such States are required to comply with the requirements, including any additional regional or local mandates within such coastal States.

Deputy Registrar  
Tuvalu Ship Registry