

Merchant Marine Circular

Panama Maritime Authority
General Directorate of Merchant Marine
Department of Control and Compliance

MERCHANT MARINE CIRCULAR MMC-379

To: Recognized Organizations (RO's), Ship-owners/Operators, Legal Representatives of Panamanian Flagged Vessels, Panamanian Merchant Marine Consulates, Segumar Regional Offices, ASI Inspectors, Port State Control Inspectors, Shipping Companies and other flag customers.

Subject: Procedure for Port State Control (PSC), 2019.

Reference: Resolution A.1138 (31) Procedures for Port State Control, 2019.
Resolution No.107-OMI-233-DGMM of May 18, 2020 adopted Resolution A.1138 (31).
Resolution A.1070(28) IMO Instruments Implementation Code (III Code).
Resolution MEPC.321(74) 2019 Guidelines for Port State Control under MARPOL Annex VI Chapter 3.
MSC-MEPC.4/Circ.4 Guidelines for Port State Control Officers on the ISM Code.
ILO Guidelines for Port State Control Officers carrying out inspections under the MLC, 2006.
MSC.1/Circ.1565 - Guidelines on the voluntary early implementation of amendments to the 1974 SOLAS.
Convention and related mandatory instruments.
FAL.5/Circ.39/Rev.2 and Corr.1 - Guidelines for the use of electronic certificates.
MSC-MEPC.4/Circ.2 - Code of Good Practice for Port State Control Officers.

1.Purpose

1.1 This Merchant Marine Circular informs that the IMO Resolution A.1138(31) was adopted on 04 December 2019, updating the Procedures for Port State Control Inspections, providing basic guidance on the conduct of port State control inspections in support of the control provisions of relevant conventions and parts of the IMO Instruments Implementation Code (III Code) (resolution A.1070(28)) and afford consistency in the conduct of these inspections, the recognition of deficiencies of a ship, its equipment, or its crew, and the application of control procedures.



Merchant Marine Circular

These guidelines will be implemented by governments exercising port state control; for that reason, we invite all to get familiarized with these new procedures in order to be ready to face port state control inspections. We will highlight on this circular some of the main topics covered by the new Procedures and that can be of your interest.

2. Introduction

2.1 Under the provisions of the relevant conventions, the Administration is responsible for promulgating laws and regulations and for taking all other steps which may be necessary to give the relevant conventions full and complete effect so as to ensure that, from the point of view of safety of life and pollution prevention, a ship is fit for the service for which it is intended and seafarers are qualified and fit for their duties.

2.2 The nature of international shipping means that ships may not frequently call at ports in their flag State. It is therefore common to find that such flag States appoint the nominated surveyors at foreign ports and authorize recognized organizations (ROs) in accordance with the provisions of various conventions.

2.3 The following control procedures should be regarded as complementary to national measures taken by flag State Administrations in their countries and abroad and are intended to provide a common and consistent approach to the performance of port State control inspections and control measures taken as a consequence of the detection of serious deficiencies. These Procedures are also intended to provide assistance to flag State Administrations in securing compliance with convention provisions in safeguarding the safety of crew, passengers and ships, and ensuring the prevention of pollution.

2.4 Provision for Port State Control

2.4.1 SOLAS 1974 regulations I/19, IX/6.2, XI-1/4 and XI-2/9, as modified by SOLAS PROT 1988; article 21 of LL 1966, as modified by LL PROT 1988; articles 5 and 6, regulation 11 of Annex I, regulation 16.9 of Annex II, regulation 9 of Annex III, regulation 14 of Annex IV, regulation 9 of Annex V and regulation 10 of Annex VI of MARPOL; article X of STCW 1978; article 12 of TONNAGE 1969, article 11 of AFS 2001 and article 9 of BWM 2004 provide for control procedures to be followed by a Party to a relevant convention with regard to foreign ships visiting their ports. The authorities of port States should make effective use of these provisions for the purposes of identifying deficiencies, if any, in such ships which may render them substandard (see section 3.1) and ensuring that remedial measures are taken.



Merchant Marine Circular

2.5 Ships of Non-Parties

2.5.1 Article I(3) of SOLAS PROT 1988, article I(3) of LL PROT 1988, article 5(4) of MARPOL, article X(5) of STCW 1978, article 3(3) of AFS 2001 and article 3(3) of BWM 2004 provide that no more favourable treatment is to be given to the ships of countries which are not Party to the relevant convention. All Parties should, as a matter of principle, apply these Procedures to ships of non-Parties in order to ensure that equivalent surveys and inspections are conducted and an equivalent level of safety and protection of the marine environment is ensured.

2.5.2 As ships of non-Parties are not provided with SOLAS, Load Lines, MARPOL, AFS or BWM certificates, as applicable, or the crew members may not hold STCW certificates, the port State control officer (PSCO), taking into account the principles established in these Procedures, should be satisfied that the ship and crew do not present a danger to those on board or an unreasonable threat of harm to the marine environment. If the ship or crew has some form of certification other than that required by a convention, the PSCO may take the form and content of this documentation into account in the evaluation of that ship. The conditions of and on such a ship and its equipment and the certification of the crew and the flag State's minimum manning standard should be compatible with the aims of the provisions of the conventions; otherwise, the ship should be subject to such restrictions as are necessary to obtain a comparable level of safety and protection of the marine environment.

2.6 Ships Below Convention Size

2.6.1 In the exercise of their functions, PSCOs should be guided by any certificates and other documents issued by or on behalf of the flag State Administration. In such cases, the PSCOs should limit the scope of inspection to the verification of compliance with those certificates and documents.

2.6.2 To the extent a relevant instrument is not applicable to a ship below convention size, the PSCO's task should be to assess whether the ship is of an acceptable standard in regard to safety and the environment. In making that assessment, the PSCO should take due account.



Merchant Marine Circular

3. Definitions

3.1 Bulk carrier: While noting the definitions in SOLAS 1974 regulations IX/1.6 and XII/1.1 and resolution MSC.277(85), for the purposes of port State control, PSCOs should be guided by the ship's type indicated in the ship's certificates in determining whether a ship is a bulk carrier and recognize that a ship which is not designated as a bulk carrier as the ship type on the ship certificate may carry certain bulk cargo as provided for in the above instruments.

3.2 Clear grounds: Evidence that the ship, its equipment, or its crew do not correspond substantially with the requirements of the relevant conventions or that the master or crew members are not familiar with essential shipboard procedures relating to the safety of ships or the prevention of pollution. Examples of clear grounds are included in section 2.4 of resolution A.1138 (31).

3.3 Deficiency: A condition found not to be in compliance with the requirements of the relevant convention.

3.4 Detention: Intervention action taken by the port State when the condition of the ship or its crew does not correspond substantially with the relevant conventions to ensure that the ship will not sail until it can proceed to sea without presenting a danger to the ship or persons on board, or without presenting an unreasonable threat of harm to the marine environment, whether or not such action will affect the normal schedule of the departure of the ship.

3.5 Initial inspection: A visit on board a ship to check the validity of the relevant certificates and other documents, the overall condition of the ship, its equipment and its crew (see also section 2.2 of resolution A.1138 (31)).

3.6 More detailed inspection: An inspection conducted when there are "clear grounds", as defined under paragraph 3.2.

3.7 Nearest appropriate and available repair yard: A port where follow-up action can be taken, and it is in, or closest to, the port of detention or the port where the ship is authorized to proceed taking into account the cargo on board.



Merchant Marine Circular

3.8 Port State control officer (PSCO): A person duly authorized by the competent authority of a Party to a relevant convention to carry out port State control inspections, and responsible exclusively to that Party.

3.9 Recognized organization (RO): An organization which meets the relevant conditions set forth in the Code for Recognized Organizations (RO Code) (MSC.349(92) and MEPC.237(65)), and has been assessed and authorized by the flag State Administration in accordance with provisions of the RO Code to provide the necessary statutory services and certification to ships entitled to fly its flag.

3.10 Stoppage of an operation: Formal prohibition against a ship to continue an operation due to an identified deficiency or deficiencies which, singly or together, render the continuation of such operation hazardous.

3.11 Substandard ship: A ship whose hull, machinery, equipment or operational safety is substantially below the standards required by the relevant convention or whose crew is not in conformity with the safe manning document.

3.12 Valid certificates: A certificate that has been issued, electronically or on paper, directly by a Party to a relevant convention or on its behalf by an RO, contains accurate and effective dates, meets the provisions of the relevant convention and to which the particulars of the ship, its crew and its equipment correspond.

4 Professional Profile of PSCOs

4.1 Port State control should be carried out only by qualified PSCOs who fulfil the qualifications and training specified in section 1.9 of resolution A.1138 (31).

4.2 When the required professional expertise cannot be provided by the PSCO, the PSCO may be assisted by any person with the required expertise, as acceptable to the port State.

4.3 PSCOs and persons assisting them should be free from any commercial, financial, and other pressures and have no commercial interest in the port of inspection, the ships inspected, ship repair facilities or any support services in the port or elsewhere, nor should PSCOs be employed by or undertake work on behalf of ROs or classification societies.



Merchant Marine Circular

4.4 A PSCO should carry a personal document in the form of an identity card issued by the port State and indicating that the PSCO is authorized to carry out the control.

5. Information available on Chapters 2, 3, 4 and 5 of Resolution A.1138 (31)

5.1 Initial Inspections, General Procedural Guidelines for PSCOs, Examples of Clear Grounds and More Detailed Inspections, are available on Chapter 2 of resolution A.1138 (31).

5.2 Identification of a substandard ship, submission of information concerning deficiencies, port state action in response to alleged substandard ships, responsibilities of port state to take remedial action, guidance for the detention of ships, suspension of inspection, procedures for rectification of deficiencies and release, are available on Chapter 3 of resolution A.1138 (31).

5.3 Port State reporting, flag state reporting, reporting of allegations under MARPOL, are available on Chapter 4 of resolution A.1138 (31).

5.4 Report of Comments is available on Chapter 5 of resolution A.1138 (31).

6. Appendices of Resolution A.1138(31)

- Appendix 1 Code of good practice for port State control officers conducting inspections within the framework of the regional memoranda of understanding and agreement on port State control.
- Appendix 2 Guidelines for the detention of ships.
- Appendix 3 Guidelines for investigations and inspections carried out under MARPOL Annex I.
- Appendix 4 Guidelines for investigations and inspections carried out under MARPOL Annex II.
- Appendix 5 Guidelines for discharge requirements under MARPOL Annexes I and II.
- Appendix 6 Guidelines for more detailed inspections of ship structural and equipment requirements.
- Appendix 7 Guidelines for control of operational requirements.
- Appendix 8 Guidelines for port State control officers on the ISM Code.



Merchant Marine Circular

- Appendix 9 Guidelines for port State control related to LRIT.
- Appendix 10 Guidelines for port State control under TONNAGE 1969.
- Appendix 11 Guidelines for port State control officers on certification of seafarers, manning and hours of rest.
- Appendix 12 List of certificates and documents.
- Appendix 13 Report of inspection in accordance with procedures for port State control.
- Appendix 14 Report of deficiencies not fully rectified or only provisionally rectified.
- Appendix 15 Report of action taken to the notifying authority.
- Appendix 16 Format for the Report of contravention of MARPOL (article 6).
- Appendix 17 Comments by flag State on detention report.
- Appendix 18 2019 Guidelines for port State control under MARPOL Annex VI chapter 3 (resolution MEPC.321(74)).
- Appendix 19 List of instruments relevant to port State control procedures.

June, 2020 - Adoption of Resolution A.1138(31) Procedures for Port State Control, 2019 by means of Resolution No.107-OMI-233-DGMM of May 18, 2020.

Inquiries concerning the subject of this Merchant Marine Circular or any other request should be directed to:

Navigation and Maritime Safety Department
Directorate General of Merchant Marine
Panama Maritime Authority

Phone: (507) 501-5031

E-mail: psc@amp.gob.pa

Website: <https://panamashipregistry.com/circulars/>

PanCanal Building
Albrook, Panama City
Republic of Panama
Tel: (507) 501-5355
E-mail: mmc@amp.gob.pa

 Panama Ship Registry
 @ShipPanama

#SteeringYourWay