

Guidance and model declaration to assist crews' environmental compliance

BIMCO has developed a model Declaration on seafarer's compliance with environmental rules and regulations for members to use. The Declaration was first published in April 2015 and the Secretariat has received reports from members in support of the Declaration and informing that they are very satisfied with its use. The Secretariat would welcome further reports from members about experiences with the use of the Declaration and whether it is being used in its original model form or is systematically amended to fit particular needs.

All the details of the Declaration are below – and are intended to assist members in ensuring compliance with environmental rules and regulations in force around the world.

Guidelines and a model Declaration on seafarers' compliance with environmental rules and regulations

This model is specifically designed to help shipping companies to ensure that their employees acknowledge and comply with the company's policy to meet environmental regulations. Non-compliance can carry a high cost for companies alongside the obvious environmental implications and can also involve criminal proceedings. For example, the Act to Prevent Pollution from Ships (APPS) in the US is particularly strict on the discharge of oil-contaminated waste and keeping an accurate oil record book.

The Declaration has two main purposes:

1. To ensure that employees are aware of their shipping company's policy on compliance and that they comply with all relevant rules and regulations.

Of course, employees are already under an obligation to comply with applicable rules and regulations at work, but the Declaration places an emphasis on this and should help to raise awareness and build a culture of compliance amongst employees. From the employee's perspective, a greater awareness and culture of compliance should serve to protect them by making it less likely that they will, knowingly or unknowingly, be involved in non-compliance.

2. To provide a clear demonstration that employers/shipping companies are focused on ensuring that their employees stay compliant. This is especially important in circumstances where criminal investigations into possible violations take place. The existence of such declarations could possibly also work as a mitigating factor for the company and/or employees in cases where violations have taken place.

Using the Declaration is essentially a means of documenting that employees have been specifically and unambiguously informed about management intentions to comply and that this obligation has been understood by the individual employee by virtue of his/her signature.

The model Declaration, which should be signed by both parties, states that the employee is aware of his or her employer's policy on compliance with environmental rules and regulations and will respect these at all times. The model also states that the employee will inform the master without delay about any non-compliance on board the ship.

To further promote effective reporting, it is considered that shipping companies should have an additional channel for reporting non-compliance directly to the company ashore. This channel would be used in cases where reporting to the master is not possible or may compromise the reporting employee's position. This additional channel could be to the Designated Person Ashore (DPA), as mentioned in the ISM code. The DPA should be a person within the shipping company who would have the authority to take appropriate action, while respecting the duty of confidentiality of the reporting employee. The other benefit of providing a DPA as such a channel is to avoid delays in employees reporting any non-compliance on board the ship. For example, there have been a number of cases in the US in which whistle-blowers have waited until reaching a US port before notifying port state control authorities about violations. With this in mind, clear and direct contact information for the reporting channels should be included when filling out the Declaration below.

The model Declaration may either be presented to the employee as a standalone document when signing on as crew on one of the employer's ships or could be annexed to the employment contract itself – as is often done for similar declarations on compliance with drugs and alcohol policies. Presenting employees with a standalone Declaration when they join the ship has the advantage of facilitating its introduction into the already existing terms of employment.

While the model Declaration may, in principle, be used in all jurisdictions, its second paragraph has been drafted specifically for use in terms of employment involving US waters, in recognition of the particularly strict environmental compliance required in that area.

BIMCO fully recognises that some shipping companies will already have developed and use declarations on compliance similar to the model below and may have no need of this guidance. Rather, the model is intended to be useful to companies which do not have such declarations and may not have the capacity to develop them. Use of the model Declaration is entirely voluntary, and BIMCO recognises that it will not be relevant for all companies to do so. BIMCO assumes no responsibility of any kind in relation to the model Declaration's use or non-use, and regardless of whether it is used in its original or a modified form.

Model

Standalone Declaration or Annex to employment contract:

Declaration on Seafarers' Compliance with Environmental Rules and Regulations
(to be filled in and/or amended as necessary)

This Declaration reflects that commercial and environmental consequences of a lack of compliance with environmental rules and regulations is of great concern for the undersigned Employer. Avoiding non-compliance ensures the ship's continued ability to trade and reduces the risk of a negative impact on the environment resulting from the operation of the ship.

The undersigned Employee, by the signature of this Declaration, declares to be fully informed about, and aware of, the undersigned Employer's policy on strict compliance with all relevant USA marine environmental standards, including specific provisions in the US Act to Prevent Pollution from Ships (APPS) concerning discharges of effluents and/or oil-contaminated waste and maintenance of an accurate oil record book. The Employee has received a copy of the Employer's Policy on compliance to this effect.

The undersigned Employee undertakes to ensure compliance at all times with the above mentioned rules and regulations and inform without delay the Master of the ship about any non-compliance on board the ship. Alternatively, in circumstances where reporting on board is not possible or may compromise the reporting Employee's position, any non-compliance can be reported in full confidentiality to [a named shore-based entity e.g. the COO or DPA of the shipping company]. This obligation applies regardless of by whom this non-compliance has been carried out.

It is considered a serious breach, if this declaration is not respected by the undersigned Employee. It can have severe consequences for his/her future employment with the undersigned Employer, including termination of the employment contract in accordance with the terms of that contract.

Employee

Employer

Place

Place

Signature and date

Signature and date

Contact: international@bimco.org.