

ILFRACOMBE HARBOUR

DANGEROUS GOODS

STANDARD OPERATING PROCEDURE # 06

NORTH DEVON COUNCIL
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Contents

DANGEROUS GOODS	0
STANDARD OPERATING PROCEDURE 006	0
1.0 DOCUMENT CONTROL	1
2.0 INTRODUCTION	2
2.1 LEGAL REQUIREMENT	2
2.2 DUTIES UNDER THE DANGEROUS GOODS IN HARBOUR AREAS REGULATIONS 2016 (DGHAR)	2
2.2.1 MEANING OF 'DANGEROUS GOODS'.....	2
3.0 REGULATIONS THAT RELATE TO ILFRACOMBE HARBOUR	3
3.1 REGULATION 5: APPLICATION OF THE REGULATIONS	3
3.2 REGULATION 6: NOTICE OF ENTRY OF DANGEROUS GOODS	4
3.3 REGULATION 7: HARBOUR MASTER POWERS.....	5
3.4 REGULATION 12: UNTOWARD INCIDENTS	6
3.5 REGULATION 25: BYELAWS	6
3.5.1 ILFRACOMBE HARBOUR BYELAWS: REQUIREMENTS AS TO HANDLING AND MOVEMENT OF GOODS IN THE HARBOUR	6
3.6 REGULATION 26 & 27: ENFORCEMENT	7
3.6.1 REGULATION 27	7
4.0 DANGEROUS GOODS BY SEA	8
5.0 DANGEROUS GOODS FROM INLAND ENTERING THE HARBOUR AREA.....	9

1.0 Document Control

This SOP is subject to a 5 yearly review and periodic amendment as required

Major changes will be issued as a new version with all minor amendments to that version annotated by a decimal point e.g. V2 will become V2.1, V2.2 etc.

DATE	Review(R) Amendment(A)	Description of changes

2.0 Introduction

The aim of this SOP is to give the requirements for the transporting of Dangerous Goods through Ilfracombe Harbour's jurisdiction in the event that the occasion occurs.

2.1 Legal Requirement

Under the Health and Safety at Work etc. Act 1974 (HSW Act), employers, people in control of premises, the self-employed and employees must ensure the health and safety of others and themselves so far as is reasonably practicable.

There are also regulations that apply to all industries because many of the hazards will be the same regardless of the industry involved. But some industries do have specific pieces of legislation. In the port industry, these include:

2.2 Duties under the Dangerous Goods in Harbour Areas Regulations 2016 (DGHAR)

<https://www.hse.gov.uk/ports/dangerous-goods.htm>

DGHAR is supported by an Approved Code of Practice and Guidance (ACOP) L155

<https://www.hse.gov.uk/pubns/books/l155.htm>

DGHAR came into force on 1 October 2016. They contain a set of safety provisions aimed at safeguarding ports against major accidents involving dangerous goods when they transit through ports, Harbours and harbour areas. The purpose of the regulations is to put in place certain specific measures to reduce the risk of a serious incident occurring.

Specific duties under DGHAR are given to all harbour authorities, harbour masters and masters and agents of vessels. Those most applicable to Ilfracombe are;

1. The harbour master is given powers to regulate the movement of dangerous goods within the harbour area when they create risks to health and safety.
2. Harbour authorities must produce emergency plans to deal with potential consequences of an emergency involving dangerous goods in the harbour area, and any 'untoward incidents' (incidents involving or threatening the containment of dangerous goods) must be reported to the harbour master. Refer to <https://www.northdevon.gov.uk/media/380195/marine-emergency-plan-ver-42-august-2020.pdf>
3. Anyone bringing dangerous goods into a harbour must pre-notify the arrival of the goods to the harbour master and/or berth operator.

2.2.1 Meaning of 'Dangerous Goods'

Dangerous Goods as defined under regulation 3 of DGHAR "*Dangerous goods*" means goods or cargoes, whether packaged or in bulk, which meet the criteria in the IMDG Code for classification as dangerous goods.

3.0 Regulations that relate to Ilfracombe Harbour

3.1 Regulation 5: Application of the Regulations

1. These Regulations apply in Great Britain to –
 - a) Every harbour area;
 - b) Premises or activities in any part of a harbour area in the territorial waters to which sections 1 to 59 of the 1974 Act apply under Articles 6 (but only to the extent it relates to monobuoys) and 11 of the Health and Safety at Work etc. Act (Application outside Great Britain) Order 2013 but not, except as provided in regulation 14, elsewhere.

2. These Regulations apply to or in relation to dangerous goods except –
 - a) Dangerous goods of Class 4.2 meeting the definition of dangerous goods solely by virtue of being at risk of oxidative self-heating when stored over a long period of time;
 - b) Goods meeting the definition of dangerous solely by virtue of being marine pollutants;
 - c) Dangerous goods carried under limited quantity or excepted quantity provisions in the IMDG Code;
 - d) Dangerous goods taken in sample form for testing by an enforcement officer;
 - e) Dangerous goods being used solely in connection with the propulsion of a vessel or any other mode of transport and which are not loaded or carried as cargo;
 - f) Dangerous goods, other than explosives, which are brought into a harbour area from inland and which are not loaded onto a vessel as cargo;
 - g) Dangerous goods when carried –
 - i. By a vessel as part of the equipment or stores of that vessel;
 - ii. By a vehicle or in a freight container or by any other mode of transport as part of the equipment of that vehicle, vessel, freight container or any other mode of transport;
 - iii. For safety purposes;
 - iv. By a vessel as a result of the use of a fumigant;
 - h) Dangerous goods, other than explosives, when carried by a harbour craft in the course of harbour engineering operations; and
 - i) Any nuclear explosive device or any part of a nuclear explosive device.

3. These Regulations do not affect –
 - a) Any action of Her Majesty's Commissioners for Revenue and Customs or any requirement for the approval of, authority from, clearance by or notification to them or the necessity to comply with any order or conditions imposed by them;
 - b) Any action taken by a person in relation to a direction given under Schedule 3A to the Merchant Shipping Act 1995, or any action taken under paragraphs 1–4 of that Schedule.

3.2 Regulation 6: Notice of entry of dangerous goods

1. The master, agent or operator, as relevant, of any vessel or vehicle, or any other mode of transport, must before bringing any dangerous goods into the harbour area, give notice to –
 - a) The harbour master of the harbour area;
 - b) The berth operator where the goods are to be brought to a berth; and
 - c) Where relevant, the harbour master of any abutting or overlapping harbour area.
2. The notice under paragraph (1) must be given not less than 24 hours and not more than 6 months before the dangerous goods are brought into the harbour area.
3. Notwithstanding paragraph (2) –
 - a) The harbour master may, if operational limitations make it necessary, direct that a period of more than 24 hours, but less than 14 days' notice, be given;
 - b) The harbour master, and where relevant the berth operator, may agree to accept less than 24 hours' notice where either it is not reasonably practicable to give 24 hours' notice or neither health nor safety risks are increased by a shorter period;
 - c) The master of a vessel carrying dangerous goods which is under the control of the Secretary of State, or under the control of a visiting force or headquarters, must give notice to the harbour master before entry into the harbour area, and with respect to the carriage of explosives is required to confirm that –
 - (i) The quantity of explosives is within the limit of any condition to which entry into or the carrying or handling within the harbour area of explosives will be subject; or
 - (ii) The explosives are subject to a scheme authorised by the Secretary of State for safe storage, carriage and handling.
4. Notice under this regulation is to be given in writing or such form as the harbour master may agree and contain sufficient information to assist a proper evaluation of the risk created by the goods to the health and safety of any person.
5. Notice is not required under this regulation in respect of –
 - a) Dangerous goods, except where the dangerous goods are explosives, carried by a vessel which is to pass through the harbour area without unloading in that area, an overlapping area or an abutting harbour area;
 - b) A radioactive substance that is exempt from the requirements of the Carriage of Dangerous Goods and the Use of Transportable Pressure Equipment Regulations 2009;
 - c) A ferry operated entirely within Category A–D waters within the meaning of the Merchant Shipping (Categorisation of Waters) Regulations 1992;
 - d) Dangerous substances in a pipeline;
 - e) Dangerous goods carried by a foreign warship.
6. A harbour master may exempt any person from the requirements of this regulation where such an exemption is necessary for securing the health and safety of any person, and any such exemption may be granted subject to conditions and time limits and may be revoked at any time.
7. A harbour master granting or revoking an exemption under this regulation must keep a record of the exemption, including any conditions and time limits.

3.3 Regulation 7: Harbour Master Powers

1. Subject to paragraphs (2) and (6), in addition to any powers granted under byelaws made under regulation 25, a harbour master may give directions as set out in paragraph (4) to –
 - a) A person having control of dangerous goods;
 - b) A person having control of a freight container, receptacle or portable tank containing dangerous goods;
 - c) The operator of a vehicle carrying dangerous goods;
 - d) The master of a vessel carrying dangerous goods.
2. A harbour master may give directions to those persons in paragraph (1) if, taking into account all relevant circumstances, the condition of the dangerous goods, or their containers, or matters related to the dangerous goods create a risk to the health and safety of any person in, or in the vicinity of, the harbour area.
3. For the purpose of securing the safety of any person, where the harbour master has given directions under paragraph (1), the Secretary of State may give directions to require that harbour master to give such other directions under this regulation as may be specified by the Secretary of State.
4. Directions given under this regulation may –
 - a) Regulate or prohibit entry into;
 - b) Require the removal from;
 - c) Regulate the handling, movement or position within, the harbour area of the dangerous goods, freight container, receptacle, vehicle, vessel, portable tank or other mode of transport.
5. Where the harbour master intends to give a direction requiring the dangerous goods to be removed by land from the harbour area, the harbour master must consult any police force through whose area the dangerous goods are to be moved.
6. A person to whom directions are given under this regulation must comply with those directions.
7. Paragraph (1) does not apply to any vessel under the control of the Secretary of State or a visiting force or headquarters or to any dangerous goods, freight container, portable tank or receptacle carried by such vessel.
8. A harbour master is not under any duty to examine the condition of any dangerous goods, freight container, portable tank, receptacle, vehicle or vessel as a result of this regulation.

Situations may arise when dangerous goods in or entering the harbour area create a risk to health and safety in the harbour. This could be because of the condition of the goods themselves, their container, or the vehicle or vessel carrying them. In such circumstances the harbour master may decide it is necessary to:

- a) Prevent the entry;
- b) Order the removal;
- c) Regulate the movement of the vehicle, vessel or dangerous goods.

The powers given to harbour masters by this regulation are in addition to any powers the harbour master may have under Byelaws, made under regulation 25, or General, Harbour and Special Directions.

This regulation does not give harbour masters the power to regulate or refuse entry to dangerous goods solely because of their dangerous properties. The powers are limited to dangerous goods that are causing concern because of their condition, or the condition of what they are contained or being transported in.

Directions given under this regulation do not have to be in writing. However, the harbour master is advised to keep a written record of such directions.

3.4 Regulation 12: Untoward Incidents

1. The master of a vessel carrying dangerous goods must immediately inform the harbour master of any untoward incident which occurs or has occurred on the vessel.
2. The master of any vessel at the berth must immediately inform the harbour master of any untoward incident which occurs on the berth and vice versa.
3. Where an untoward incident occurs during the operation of handling dangerous goods, the person in control of the operation must stop the operation as soon as it is safe to do so and must immediately report the incident to the harbour master and the master of any vessel that may be affected by the incident and, where appropriate, the emergency services.
4. Where an operation has been stopped in accordance with paragraph (3), it shall not be resumed until it is safe to do so in the opinion of the harbour master.
5. In this regulation an “untoward incident” means an incident involving or threatening the containment of dangerous goods inside a harbour area, which might create in the harbour area a serious risk to the health and safety of any person or a risk to the safety of a vessel.

This regulation relates to all incidents involving a loss of containment, or the threat of a loss of containment, if they create a risk in the harbour or harbour area. The most likely time for an incident to occur is when loading or unloading is taking place. This regulation requires such untoward incidents to be reported and dealt with to prevent the incident escalating into a major emergency, if possible. Incidents should be reported immediately, and it is important that suitable communication arrangements are in place to enable this to happen

3.5 Regulation 25: Byelaws

1. A statutory harbour authority which is either –
 - a) A local authority; or
 - b) A public authority,May, make byelaws in respect of its harbour area prohibiting the entry or regulating the entry, carriage, handling or storage of dangerous goods.
2. Byelaws must not conflict with these Regulations or with any other statutory provision.
3. Byelaws are limited to matters relating to the harbour area.
4. Byelaws may contain provisions for enforcement.

Because national regulations may not cover all of the circumstances involving dangerous goods that a harbour authority may wish to control, this regulation empowers a statutory harbour authority to make byelaws to prohibit the entry of dangerous goods or to regulate their entry, carriage, handling and storage.

Byelaws should not duplicate or conflict with these or any other regulations.

3.5.1 Ilfracombe Harbour byelaws: Requirements as to handling and movement of goods in the Harbour

#22.

- (i) The Owner of any goods loaded or discharged at the Harbour shall ensure that the goods are removed therefrom as soon as practicable and, in any case, within forty eight (48) hours unless the Harbour Master otherwise agrees.

(ii) The Owner of any goods shall comply with such directions as the Harbour Master may give for regulating the time, place and manner of discharging, loading or otherwise bringing into or removing those goods from the Harbour premises Precautions against goods etc. falling into Harbour waters or the Authority's premises.

#23. The Master of a vessel and any person undertaking the loading of cargo into or onto a vessel or the discharging of cargo from a vessel shall use or cause to be used such methods as the Harbour Master may direct for the prevention of any cargo, dunnage, ballast or other materials from falling, escaping or being discarded into or onto the waters of the Harbour or onto the premises of the Authority

3.6 Regulation 26 & 27: Enforcement

1. Subject to section 18(1A) of the 1974 Act and paragraphs (2) and (3), the Health and Safety Executive is responsible for enforcing these Regulations.
2. A statutory harbour authority is responsible for enforcing regulations 6, 7, 8, 9, 13(3) and 21 against persons other than itself.
3. The Office for Nuclear Regulation is responsible for enforcing these Regulations in any harbour area which is, or forms part of, an authorised defence site or a new nuclear build site.
4. In this regulation "authorised defence site" and "new nuclear build site" have the meanings given in the Health and Safety (Enforcing Authority) Regulations 1998.

3.6.1 Regulation 27

The exercise of due diligence to avoid the commission of an offence is a defence in any proceedings under these Regulations or byelaws made under these Regulations.

- DGHAR will be enforced by HSE (or, where relevant, ONR) and statutory harbour authorities.
- Regulation 26 sets out the parts and individual regulations to be enforced by each.
- Statutory harbour authorities have the power to appoint inspectors to enforce the regulations listed in regulation 26. Inspectors' powers will be limited to the jurisdiction of the statutory harbour authority that appointed them.
- If the statutory harbour authority is itself engaged in any of the operations covered by DGHAR then any enforcement against the statutory harbour authority would be by HSE or ONR.
- Failure to comply with DGHAR is an offence under section 33 of the HSW Act. On summary conviction, offences under section 33 are subject to a fine. On conviction on indictment, they are subject to an unlimited fine or, for certain offences, a term of imprisonment not exceeding two years, or both.

4.0 Dangerous Goods by Sea

In accordance with Regulation 6 of DGHAR 2016 the following information is required by the Harbour Master, in writing, in respect of the advance notice of all dangerous goods arriving by sea in to Ilfracombe Harbour for discharge or in transit.

The advance notice must contain the following information from masters of vessels or their agents and must be received at least 24 hours prior to the arrival of the vessel. In the event of vessels bound for Ilfracombe whose passage time is less than 24 hours, the report should be sent from the last port of call to ensure that the details have been received prior to the vessel's arrival thus avoiding any unnecessary delay.

1. Vessel Details

- Name and call sign of vessel
- Nationality of vessel
- Overall length, draught and beam of vessel
- ETA
- Last Port of Call

2. Dangerous Substances being carried (Specify for discharge or in transit)

- Correct technical name of dangerous substances
- UN number
- Quantity of each substance
- Classification
- Details of the number and type of packages to be individually handled (where appropriate)
- Control of Substances Hazardous to Health (COSHH) Safety Data Sheets

3. In the case of Explosives (Specify for discharge or in transit)

- UN number
- Class
- Division
- Compatibility group
- Net explosive content

5.0 Dangerous Goods from Inland entering the Harbour Area

In accordance with Regulation 6 of DGHAR 2016 the following information is required by the Harbour Master, in writing, in respect of the advance notice of all dangerous goods arriving from an Inland source entering Ilfracombe Harbour for discharge or in transit.

The advance notice of entry of dangerous goods must contain the following information from the operator (all models of transport) and must be received at least 24 hours prior to the dangerous goods entering the Harbour Area.

Consideration may be given for a lesser time period; however, it should be reasonable. A zero time factor will not be acceptable and will result in permission being denied.

1. Dangerous Substances (for loading)

- Correct technical name of dangerous substance
- UN number
- Quantity or weight of each substance
- Classification
- Name of loading vessel and berth number (if known)
- Control of Substances Hazardous to Health (COSHH) Safety Data Sheets

2. In the case of explosives (for loading) for Direct Shipment (NO STORAGE PERMITTED)

- UN number
- Class
- Compatibility Group
- Not explosive content
- Name of loading vessel
- Date/time of loading