

MGN 400 (M+F)

Additional Guidance on The Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 as amended by the Merchant Shipping (Prevention of Air Pollution from Ships) (Amendment) Regulations 2010

Notice to all Shipowners, Masters, Chief Engineers, Local Suppliers of Fuel Oil

This MGN should be read with The Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 (as amended)

This MGN replaces MIN 376(M+F)

PLEASE NOTE:-

Where this document provides guidance on the law it should not be regarded as definitive. The way the law applies to any particular case can vary according to circumstances - for example, from vessel to vessel and you should consider seeking independent legal advice if you are unsure of your own legal position.

Summary

This MGN provides guidance for ships on the requirements of the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 (as amended) ("the Regulations"). Specifically, this guidance is intended to aid interpretation of the requirements under the Regulations for ships either anchored or at berth in UK ports, with respect to sufficient time for fuel changeover, and "hotelling". These requirements implement the marine elements of the Sulphur Content of Liquid Fuels Directive, 1999/32/EC, as amended by 2005/33/EC of 6 July 2005 ("the Directive").

The European Commission has issued a Commission Recommendation (2009/1020/EU) of 21 December 2009 on the safe implementation of the use of low sulphur fuel by ships at berth in Community ports. The Commission Recommendation brings to the attention of the shipping industry a potential safety issue with the use of distillate marine fuel in boilers where the boilers have not been designed to use distillate marine fuel and/or appropriate fuel changeover procedures are not in place. Additionally the MGN highlights further guidance on implementation of the Directive published by the Commission in December 2009 that may be useful when applying the Regulations.

Under Regulation 3(13)(a) of the Regulations ships can be exempted where it is necessary for the purpose of securing the safety of a ship. Exemptions can be considered on application to the MCA.

1. Introduction

- 1.1 Regulation 4 of Schedule 2A requires that ships at berth in United Kingdom ports and inland waterways vessels do not use marine fuel which has a sulphur content exceeding 0.10 per cent by mass.
- 1.2 Regulation 4(2) of Schedule 2A identifies that this requirement does not apply to ships at berth in United Kingdom ports for that period of time which is sufficient to allow the crew to complete any necessary fuel-changeover operation. These changeover operations should be completed as soon as possible after arrival at berth and as late as possible before departure from berth.
- 1.3 The Regulations define a ship at berth as meaning “ships which are securely moored or anchored in a United Kingdom Port while it is loading, unloading or hotelling, including the time spent when not engaged in cargo operations”.
- 1.4 In order to further clarify the applicability of Regulation 4 of Schedule 2A, and in particular expand upon the definitions provided in the Regulations, the following guidance is provided.

2. Guidance for ships anchored within a UK port

- 2.1 A ship anchored within the port limits of a UK port is required to comply with the provisions for "ships at berth" in Regulation 4 of Schedule 2A.
- 2.2 For a ship anchored outside port limits but anchored within the North Sea Sulphur Emission Control Area, the ship shall remain compliant with the sulphur content limit for fuel oil used on board the ship for the North Sea Sulphur Emission Control Area.

3. Guidance on the term “sufficient time” allowed for fuel changeover operations by ships at berth in UK ports

- 3.1 What is and what is not “sufficient time” to allow for fuel changeover operations may vary. However the Regulations establish that ships are not required to changeover fuel where, according to published timetables, ships are due to be at berth for less than two hours. It can be inferred from this exemption, in general, that one hour could be considered as sufficient time to complete fuel changeover operations recognising that the time may vary depending upon ship type and ship systems.
- 3.2 Other factors that should be considered when determining what is sufficient time for fuel changeover operations should include:
 - all relevant safe operations;
 - the operating circumstances of the ship, such as to minimise the interruption of power plant;
 - a need for effective maintenance and longevity of the ship’s machinery;
 - any associated shore-based activity that might be required;
 - machinery manufacturers’ guidance;
 - company and vessel specific procedures;
 - the power rating of the engines and the viscosity of the fuel being used.
- 3.3 The UK would not consider “sufficient time” for fuel changeover operations to include time to procure and have delivery to the ship marine fuel with a sulphur content not exceeding 0.10%. A ship is expected to have compliant fuel onboard on arrival at berth.
- 3.4 A ship arriving at a UK port from outside the European Union that has been unable, despite best endeavours, to source compliant marine fuel before arrival in a UK port will be

expected to have made arrangements prior to arrival in the UK port to have compliant marine fuel supplied on arrival at the UK port. Where a ship arrives at a UK port without compliant marine fuel it is expected to document that efforts have been made to procure compliant marine fuel before embarking on its voyage to the UK.

4. Records in ship's logbooks

4.1 Regulations 2(4)(b), 3(5) and 4(4) of Schedule 2A require details of any fuel changeover operations to be recorded in accordance with Regulation 5 of Schedule 2A. The information required and when it is to be recorded is identified in Table 1.

Table 1 Records in ship's logbooks – fuel changeover operations

| When a record of fuel changeover operation is required | | What is required to be recorded | | | | |
|--------------------------------------------------------|--------------------------------------|---------------------------------|------|------------------|---------------------------------------------------------|---------------------------------------------------------|
| | | Time | Date | Position of ship | Volume in each tank with fuel oil not exceeding 1.50% S | Volume in each tank with fuel oil not exceeding 0.10% S |
| Before entry into a SECA | Operation is completed | X | X | X | X | |
| Following departure from a SECA | Operation commences | X | X | X | X | |
| Following arrival of ship at berth | Operation commences and is completed | X | X | | | X |
| Before departure of ship from berth | Operation commences and is completed | X | X | | | X |

5. Guidance on the term “hotelling” in the context of operations by ships at berth

5.1 “Hotelling” should be considered as when a ship is securely moored or anchored in a port and is not loading or unloading cargo, but is providing crew and any passengers with accommodation and associated services.

6. Commission Recommendation (2009/1020/EU)

6.1 The European Commission has published Commission Recommendation of 21 December 2009 on the safe implementation of the use of low sulphur fuel by ships at berth in

Community ports. The Commission Recommendation relates to the operational problems and safety risks associated with the use of marine diesel and marine gas oil in ships that have not been designed to use such fuels or have not undergone the necessary technical adaptation. The Commission have concluded that the main safety risk relates to use in ships' boilers which have not yet been assessed and certified for use with the required type of fuel.

6.2 The Commission Recommendation was published in the Official Journal of the European Union on 29 December 2009 (L348/73) and is available from the following site:
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:348:0073:0074:EN:PDF>

7. Guidance from the European Commission on implementation of the Directive

7.1 The European Commission has published guidance on implementation of the Directive. This guidance is available from the following site:
http://ec.europa.eu/environment/air/transport/pdf/ships_faq.pdf

8. Exemptions from the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 (as amended)

8.1 Regulation 3(13)(a) of the Regulations states that these Regulations do not apply to any emission "necessary for the purpose of securing the safety of a ship".

8.2 Exemptions can be considered on a case by case basis on application to the MCA, for example, trip tests undertaken by LNG ships prior to discharge of cargo at LNG terminals may merit exemption.

More Information

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