

SULPHUR CONSULTATION RESPONSES – STATUTORY INSTRUMENT, MERCHANT SHIPPING NOTICE, MARINE GUIDANCE NOTE AND GENERAL COMMENTS

Respondent	Date received	Summary of Comments	Response
Swiss Marine	08/05/14	<p>Does not see the environmental significance of ships at sea producing SO₂. Considers the dispersal does not cause an SO₂ problem. They wonder if removing the Sulphur from fuel creating an environmental benefit is worth all the additional greenhouse gases and wasted energy consumption the introduction of ECAs has created?</p> <p>Before the UK goes ahead and implements 0.1% sulphur restrictions in the European ECA perhaps it should study the data and impact on air quality of the current ECA at 1%.</p>	<p>Noted, the emphasis of the regulatory action is on reducing near to shore sulphur emissions or those located in highly populated areas hence the focus on ECA limits.</p> <p>This was modelled by the EU during the development of the directive and its was concluded that 1% did not provide a significant enough air pollution reduction</p>
EGCSA	13/05/14	(See Impact Assessment table)	
Class NK	21/05/14	<p>According to 2(3) of Schedule 2A in the draft Regulations, fuel oil with sulphur content exceeding 3.5% cannot be used outside SECA unless the abatement methods operating in closed mode are used. NK understand that "operating in closed mode" here means "operating without discharging waste streams from the abatement methods".</p> <p>However, according to 2(2)(b) of Schedule 2A in the draft ANNEX A, there is no description about operating mode within SECA.</p> <p>Would like confirmation as to why the "operating in closed mode" is specified only in 2(3) of Schedule 2A in the draft Regulations.</p>	<p>Noted, this issue will be clarified in the guidance package.</p> <p>-----</p> <p>A consequential amendment has been made to the SI</p>

Nautilus International	04/06/14	<p>Consider as drafted, the proposed regulations adequately cover the requirements of Directive 2012/33/EU and that the content of the Marine Guidance Notice and Marine Shipping Notice is helpful and appropriate.</p> <p>Would like some clarification regarding paragraph 2.2 of the revised schedule 3 to MSN 1819 which is effectively the same as the existing requirement. The paragraph states that;</p> <p>'The Master of any ship within United Kingdom waters that is to use an exhaust gas cleaning system shall provide documentation that demonstrates that waste streams discharged to the sea have no adverse impact on the ecosystem of that port, harbour or estuary.'</p> <p>A vessel could be in UK waters but not in a port, harbour or estuary. Does this requirement apply to transiting vessels or only to vessels that are scheduled to visit such areas?</p>	<p>Noted.</p> <p>-----</p> <p>Note: In order to have been approved they will have had to provide evidence that it complies with the EGCS approval rules, This issue is under discussion within the ESSF process.</p> <p>The vessels would be expected to comply in these circumstances</p>
MOD - Defence Safety Environment Authority	12/06/14	<p>MOD ships use F76 which is a distillate fuel with a sulphur content of below 0.1% however when purchased outside of the EU this quality cannot be guaranteed; therefore if purchased outside the EU but still being used while operating within the EU water it may be non compliant as there is no ability to test the fuel to see if it is compliant or to switch to an alternative fuel .</p>	<p>The requirements do not apply to warships and the UK regulations will reflect this</p>
UK Chamber of Shipping	18/06/14	<p>Draft SI – page 3. Paragraph 2(a) – change from 'fuel oil on board' to read 'fuel oil used on board' as vessels may well be carrying fuel for use outside ECAs. Paragraph 3, line 2 – 'are' should read 'area'.</p> <p>Within the draft explanatory memorandum (Annex E) they have two further points on the section entitled</p>	<p>These amendments have been made to the final SI</p> <p>This amendment has been made to</p>

		<p>'Transposition Notes'. Article 3.1 should read 0.1% vice 1.0%. In articles 4a.4 and 4a.7 is 1.5% correct?</p> <p>(See also Impact Assessment table)</p>	the SI
Lloyds Register – External Affairs	19/06/14	<p>Lloyd's Register external affairs have restricted their comments to the draft MGN.</p> <p>They believe the draft MGN represents a pragmatic approach to the issue of exceptional circumstances. It's framing and periods given are reasonable. For the "exceptional circumstance 2" section, they suggest that it would be valuable if the MGN could be clearer on the question of whether the EGCS should be running before the engine it serves is started and run until after it is stopped, or whether the EGCS is to be started after the engine and shut down before the engine. Clarity on this, including defining any time periods if appropriate, would be valuable.</p>	Whether the EGCS should be in operation before or after the engine(s) is started depends on the operation system manual. MCA will take a view on the basis of the case presented by the Master/Chief Engineer.
DFDS	23/06/14	<p>The Merchant Shipping (Prevention of Air Pollution from Ships) and Motor Fuel (Composition and Content) (Amendment) regulations 2014:</p> <p>Item 2 and 3B . A ship may legally have fuel on that does not meet the mentioned requirements. This fuel would be for use outside the emission control area. This part of the text needs amending.</p> <p>The reworded paragraph 6 (a)(i) mentions "until 31 December 2019" whereas in fact 31 December 2019 has to be included</p> <p>Paragraph 6 (b) (i) in the case of a vessel fitted with exhaust gas cleaning system permissible sulphur levels can exceed 3.5% subject to the scrubber is certified accordingly.</p>	<p>Some clarifications of language included in the SI and guidance documents.</p> <p>The exhaust gas cleaning system needs to be operated at closed mode if the use of fuel is in excess of 3.5% sulphur content</p>

BP Shipping Ltd	24/06/14	<p>Believe there should not be instant penalties when there is evidence to support a genuine attempt to procure 0.1% low sulphur fuel at the last port of call prior to an entry into the European ECA.</p> <p>They believe 'deliberate' non compliance should result in stricter penalties.</p> <p>Agree with no 'gold plating' and health benefits should not be overstated.</p> <p>BP believe retrofitting of scrubbers is a difficult option for many existing ships. However, lower prices for the residual fuel oil may offset increases in the operating costs and this is something which cannot easily be predicted. Options to offer exemption in an event of an equipment failure or exceptional circumstances, should be available within the scope of the regulations, so that ships can safely deal with an un-expected eventuality at no fault of theirs.</p> <p>BP would like to see clear guidance on how the rules will affect ships engaged on international voyages transiting through an ECA zone, but not calling in to an EU port? Basically, which aspect of the regulations will then take effect for those ships and what fuel will they need to use while making that transit? Clarity is also needed on the official definition of EU waters in a manner that it does not impede the underlying principles of UNCLOS. This is more so relevant in case of 2020 European - 0.5% low sulphur requirements. Certainty on the territorial application of the new rules, well before 2020 will clearly help both refinery and shipping sectors to plan and make investment decisions in good time.</p>	<p>The UK will take a pragmatic approach on a case by case basis over enforcement issues.</p> <p>The SI follows normal statutory penalties – however, there is the option for cases to be referred to the crown court where the penalties may be more severe.</p> <p>Noted.</p> <p>The UK has set out a pragmatic approach in the Marine Guidance Note advising ships on action to take in unexpected circumstances.</p> <p>The regulations are clear in that vessels are required to comply when in EU waters and we are confident that there is nothing in the requirement which impedes UNCLOS.</p>
The Maritime Heritage Trust	24/06/14	While MHT supports the wider use of lower polluting	Noted but neither MARPOL nor the

		fuel oils in an attempt to reduce global atmospheric pollution, the maritime heritage sector is unable to recoup the significant additional expense this would impose on future sailing options and thus place the operation of vessels so important to the nation's heritage in jeopardy. Commercial operators would have much greater flexibility in recovery of such costs which could, for example, include modification to engine systems – an option not available to our sector on account of issues of originality.	Directive allow for Member States to issue exemptions.
Harwich Town Council	26/06/14	Does not believe the directive should be implemented until the EU is in a position to implement it in all EU waters. Furthermore the partial implementation will have a serious and unfair negative impact on the local economy of affected communities due to the creation of a trading cost imbalance between ports in areas in which the directive is being implemented and ports in which it is not.	The Directive is being implemented by all EU Member States in the same manner.
Scottish Environment Protection Agency	26/06/14	They are supportive of the measures to reduce sulphur dioxide emissions which may affect human health and the human environment.	Noted.
UK Major Ports Group	26/06/14	(See Impact Assessment table)	
Forth Ports	27/06/14	Support measures to reduce pollution (See Impact Assessment table). The UK implementation has a definitive start date, and whilst this date has been known for some time, the infrastructure that needs to be upgraded (whether ships or refineries) is significant requiring careful planning. Particularly given the prevailing wind conditions in the UK, perhaps a more flexible implementation option could be available to those operators who can provide a strong and genuine justification and forward compliance plan.	The requirements have been known since 2008 which allowed a significant lead time for compliance.
Hutchison Ports UK	27/06/14	Supports appropriate environmental legislation. Scrubber technology has only recently proved reliable enough to provide regulatory certainty.	Noted. Noted.

		<p>The regulations do not provide for exemptions while a rolling programme of fitting of scrubbers can be completed as in the US.</p> <p>Question whether the reference at Schedule 2A paragraph 2, sub paragraph (2)(a) is correct that none is permitted on board or whether it should refer to none being used.</p> <p>In the MSN Revised Schedule 3, paragraph 2.1, it is stated that the master of any ship must ensure that waste streams are not discharged into any port or harbour unless it is documented that there will be no adverse effect on the ecosystem. It needs to be clarified i) whose responsibility it is to monitor overboard discharges, and ii) how they should determine whether it will affect the eco-system of the port, harbour or estuary.</p> <p>It is stated in the draft SI that "The master of a relevant ship must notify its flag state and the competent authority of the relevant port when it cannot purchase fuel oil for combustion purposes to be used on the ship that meets the requirement of paragraph (4) or (5)," It is not stated what the competent port authority is to do with any reports received.</p> <p>(See Impact Assessment table)</p>	<p>Neither MARPOL nor the Directive has in place a mechanism for issuing exemptions.</p> <p>The EU is in discussion about the procedures for commissioning of the scrubbers. The issue of water quality is being considered as part of this work but for the moment no additional controls are expected for IMO type approved systems at this time.</p> <p>It should be 'none' being used. MCA will check and if necessary, instruct Legal to make the change. (MCA/Legal).</p> <p>The equipment for this process would have to be approved and therefore would meet the standard to carry out the procedure.</p> <p>The MCA as the Competent Authority would consider such situations on a case by case basis and following investigation make a decision based on the findings.</p>
Bunkerworld	01/07/14	<p>Bunker world are content with the draft Regulations, MSN and MGN.</p> <p>Enforcement They consider that the fines imposed by the UK are low in comparison with other countries.</p>	<p>Noted.</p> <p>The SI follows normal statutory penalties – however, there is the option for cases to be referred to the crown court where the penalties may be more severe. It should also be noted that the general position on</p>

		<p>General comments Sharing information from remote emission control sensors on planes, drones etc may be a way forward.</p> <p>The interpretation of sulphur test results may warrant a closer look.</p>	<p>finer for environmental offences is under review across government at this time.</p> <p>These are areas which are of interest but do not form part of the implementation of the Directive. The UK is exploring them with other EU member states.</p>
P&O Ferries	01/07/14	<p>Consider Regulations are helpful in their current form.</p> <p>MSN MSN section 2 schedule 3, waste streams from exhaust gas cleaning systems. Ref 2.1 and 2.2 it is felt that these requirements are too stringent and give an additional obligation above resolution MEPC 184 (59) , referring to MEPC 59/24/ADD.1 section 10 (wash water), the criteria for wash water is fully contained therein.</p> <p>Need to check cross references on page 5 with respect to exhaust gas cleaning systems (10.1.61).</p> <p>Page 8: clarify use of sulphur record book.</p> <p>MGN Page 3: Consider the redundancy requirement is unreasonable and excessive.</p> <p>Would like period of grace to burn high sulphur whilst carrying out repairs.</p> <p>(See also Impact Assessment table)</p>	<p>Noted</p> <p>Note: However, the MSN does reflect the content and requirements of the Directive.</p> <p>Page 8 is the format/information for the changing over of fuel (from high to low sulphur).</p> <p>Each situation will be considered on a case by case basis – the reference to ‘redundancy’ is to avoid the situation whereby the whole system would have to be put out of service. Due to failure of a single component, we will clarify the language in the guidance.</p>
Northern Marine Management on behalf of Stena	01/07/14	<p>Content with the Regulations, MSN and MGN which they found clear and helpful.</p>	<p>Noted.</p>

		(See also Impact Assessment table).	
British Ports Association	01/07/14	(See Impact Assessment table)	
Intertanko	01/07/14	Supports the Regulations to implement the Directive. (See also the Impact Assessment Table)	Noted.
Unite Union	01/07/14	<p>The potential move to LNG to avoid the cost of low sulphur distillates causes concern from a safety aspect, particularly flammability. It will also consume a large amount of the global production. Potential also for monopolies to emerge.</p> <p>They are concerned that the use of scrubbers and the resultant effluent which will be dumped will have an adverse effect on the marine environment.</p> <p>They are concerned that the enforcement and fines imposed are very inadequate. Would like to see the information gathered by the monitoring equipment transmitted electronically to confirm paper records kept by the Master.</p> <p><u>Specific comments</u></p> <p><u>SI</u></p> <p>Regulation 32 – Offences: Considering the cost saving to be made by non compliance the fines are inadequate. Would like to see an increase in fines imposed.</p> <p>Pleased to see scrubbing devices being limited to closed systems.</p> <p>They are concerned that shipping lines may use the excuse too often that adequate fuel supplies are not available.</p>	<p>Work is ongoing at IMO and the EU to ensure that LNG does not pose any additional safety concerns.</p> <p>This issue is addressed in the type approval process for the equipment.</p> <p>The SI follows normal statutory penalties – however, there is the option for cases to be referred to the crown court where the penalties may be more severe.</p> <p>The SI follows normal statutory penalties – however, there is the option for cases to be referred to the crown court where the penalties may be more severe.</p> <p>Noted.</p> <p>Issues raised such as this will be dealt with on a case by case basis and any action taken will follow an</p>

		<p>Need to re-look at the definition of 'marine fuel' to take account of LNG</p> <p><u>MSN</u></p> <p>The MSN states "<i>sulphur content of marine fuels used within Sulphur Emission Control Areas ("SECAs"), or by passenger ships operating on regular services to or from any EU port, does not exceed 1.5%</i>". The IMO reduced this limit to 1.0% on the 1st July 2010.</p> <p><u>MGN</u></p> <p>Does not believe it is either helpful or appropriate, as its focus is far too narrow and does not consider impacts beyond the shipping industry.</p> <p>(See Impact Assessment Table)</p>	<p>investigation.</p> <p>This is not within the scope of the Directive at the moment but work is ongoing to address it.</p> <p>This paragraph is intended to reflect the historic position rather than the current situation. The word 'previously' appears in the MSN and we will review the drafting to see if this needs clarifying further.</p> <p>The MGN is drafted to take account of a specific issue which is of concern to the shipping industry. Other issues of concern can be addressed in further MGN's if needed.</p>
South West Maritime History Society	02/07/14	<p>Believe an exemption should be allowed for historic ships otherwise the impact will be the end of all, or almost all, sailings of such vessels. The cost of the fuel oil would almost certainly price them out of the market.</p>	<p>There is no mechanism for an exemption to be issued either at IMO or EU level</p>
The Government Chemist	04/07/14	<p>The Government Chemist agrees with the proposals. The sulphur levels proposed for European waters (0.1 % w/w) will present an analytical measurement challenge, but methods of analysis which have been developed for the measurement of lower sulphur levels in diesel fuels are available for laboratories testing marine fuels. These methods should be validated for use on marine fuels in order for the Legislation to be fully enforceable.</p>	<p>Noted.</p>

<p>UK Petroleum Industry Association (UKPIA)</p>	<p>04/07/14</p>	<p><u>General comments</u></p> <p>UKPIA believe that the UK should transpose only the 2015 changes and not the 2020 change to 0.50% mass sulphur bunker fuel; this is because there is a review within MARPOL due before 2018, the outcome of which could be that the 0.50% mass bunker requirements are deferred to 2025. If that were the case, it would therefore make little sense or be practical to have 0.10% mass in the ECA, 0.50% mass in EU territorial waters and 3.50% mass for the open sea for the period 2020-2025, and this scenario is not in MARPOL.</p> <p><u>Draft Regulations</u></p> <p>1. The current wording of Schedule 2A, paragraph 10, sub-paragraph 2 of the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 concerning the analysis of marine fuel to determine its sulphur content states: “(2) The reference method adopted for determining the sulphur content is to be that defined by PrEN ISO 14596(14) or ISO method 8754 (2003)(15) as appropriate.” However the proposed amendment to this text states: “(2) The reference method adopted for determining the sulphur content shall be ISO method 8754 or BS EN 14596.” In the proposed amendment the test method references are inconsistent with each other.</p> <p>They consider the reference to two test methods could cause confusion.</p> <p>2. Schedule 2A, paragraph 10, sub-paragraph 4 of the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008: Check the references to 1999 Directive – should be 1999 Directive as amended by 2012/33/EU.</p>	<p>The UK is required to transpose with the 2020 date which forms part of European Law.</p> <p>The PREN standard is provisional and this is understood throughout Europe. It is not envisaged that this will cause confusion.</p> <p>Schedule 2A Paragraph 1 (interpretation) 1999 Directive means Council Directive 1999/32/EEC of 26th..... and Directive 2012/33/EU of the European Parliament of the Council of 21 Nov. 2012. Therefore,</p>
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		<p>They believe that the fuel verification procedure set out in Appendix VI to MARPOL Annex VI lacks the necessary robustness and certainty required for an authority to take action, as specified under regulation 18, against the supplier, in the case of supply of non-compliant fuel oil. A more robust approach will avoid the situation where a marine fuel being established as non compliant in accordance with MARPOL despite both the supplier's and recipients test results meeting the specification limit. Therefore, the current text of Schedule 2A, paragraph 10, sub-paragraph 4 of the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 should remain largely unchanged.</p> <p>The date reference to ISO 4259 standard needs to be removed - Sub-paragraph 4 should therefore be amended slightly to read: "(4) The statistical interpretation of the verification of the sulphur content of marine fuel is to be carried out in accordance with ISO 4259 (16)."</p> <p>Regulation 5A, paragraph 4 of the Motor Fuel (Composition and Content) Regulations 1999 concerning the restrictions on the marketing of marine diesel oil and marine gas oil: UKPIA point out some inconsistencies between these Regulations and the 2008 Air Pollution Regulations with respect to test methods they say the following reference should be used: "(4) The reference methods adopted for determining the sulphur content shall be EN ISO 8754".</p> <p>The proposed amendment to Regulation 5A, paragraph 5 of the Motor Fuel (Composition and Content) Regulations 1999 concerning the restrictions on the marketing of marine diesel oil and marine gas</p>	<p>there is no need to include the 2012 Directive.</p> <p>The implementation is in accordance with IMO and EU requirements. We are aware of ongoing discussions about this and it would not be appropriate to reflect these in the Regulations.</p> <p>The arbitration method is a matter of the UK legal framework and not governed by the Directive.</p>
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Exxon Mobil	04/07/14	Exxon’s comments are incorporated with those of UKPIA above	Noted.
RMT Union	04/07/14	<p>RMT express serious concern about the ability of the MCA to regulate compliance with the new regulations is given the £38m budget cut imposed to 2016 and continual staff cuts.</p> <p>They believe the regulations should include measures to prohibit industry from using existing loopholes in employment and equality legislation to meet compliance costs by introducing low-cost crewing models at the expense of jobs for UK seafarers.</p> <p>(See also Impact Assessment table)</p>	<p>The costs will be met in the MCA’s operating budget. The Government is discussing the wider issue of compliance monitoring with other European Member States.</p> <p>This issue is out of scope of the Directive which deals specifically with air quality.</p>

Stena Line	01/07/14	<p>Draft SI – Page 3. Paragraph 2(a) – change from ‘fuel oil on board’ to ‘fuel oil used on board’ as vessels may be carrying fuel for use outside ECA’s. Paragraph 3, line 2 – ‘are’ should read ‘area’.</p> <p>In Annex E Article 3.1 states 1% Clarification is required in Articles 4a.4 and 4a.7 in respect of the 1.5% stated.</p> <p>(See also Impact Assessment)</p>	<p>The changes as proposed have been made.</p> <p>Annex E Article 3.1 is the heavy oil not being used whilst Article 4a 7 is the marine diesel oil placed in the market. Individual Article is for different application.</p> <p>Article 4a 4 is the requirement for passenger ships in a regular service among EU Community ports. That means these passenger ships need to use the marine sulphur content fuel of 1.5% even they are not operate in the SECA. When these ships operate in SECA, it need to meet the SECA compliant fuel.</p>
The Scottish Government	02/07/14	<p>Support the introduction of measures to improve air quality and of the benefits this will bring to health and the environment and are in broad agreement with UK Governments proposal for transposition of all the requirements of the Directive.</p> <p>Compliance and enforcement and how the UK Government is going to ensure there is a "level playing field" was an issue raised by delegates at their conference earlier this year. They consider this is an area where the UK Government needs to be clear and consistent in its application of any regime. They would also welcome assurances that this was in line with measures put in place in other EU countries.</p>	Noted