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International Chamber of Shipping
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Our reference

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Your reference

Enclosure(s) 1

Date 16 October 2014
Subject MARPOL Annex VI ECA implementation and Port State
Control

Peter,

Dear Mr. Hinchliff,

The Paris MoU Advisory Board (MAB) considered the letter and associated press release from the International Chamber of Shipping, expressing the global shipping industry's concern with respect to the implementation of the 0.1% Sulphur Emission Control Areas (SECAs) on 1 January 2015.

The Board has requested me to advise you the Paris MoU will solely implement the requirements of the relevant instruments, which includes MARPOL Annex VI, but not the EU Sulphur Directive.

Furthermore the guidance provided to the PSCOs in the Paris MoU region is based on the IMO developments and is publicly available on our website. A copy of the guidance has been attached for your information.

Kind regards,

Richard W.J. Schiferli
Secretary General

GUIDELINES ON APPLICATION OF MARPOL ANNEX VI REG 18 IN AN EMISSION CONTROL AREA (ECA)

Introduction

The purpose of these guidelines is to provide advice on the implementation of Reg 18 of Chapter III of Annex VI of MARPOL – Fuel Oil Availability.

Reg 18 provides for situations where compliant fuel cannot be bunkered, provided the owner has taken reasonable steps to do so and therefore does not need to deviate from the intended route or unduly delay the voyage to achieve compliance.

It is possible that, from **01/01/2015** when the requirement to burn fuel oil with a sulphur content of not more than 0.10% m/m SO_x content fuel in an ECA comes into force, shipowners may invoke Reg 18 and claim it was not possible to bunker the correct fuel before entering the ECA.

Guidance

During the Initial Inspection within an ECA or first port after transiting an ECA the PSCO will look at:

1. Bunker delivery note showing a sulphur content of not more than 0.10% m/m for fuel oil used onboard (MARPOL Annex VI Reg 18 (5))
2. The representative sample of fuel oil with a sulphur content of not more than 0.10% m/m (MARPOL Annex VI Reg 18 (8.1))
3. Evidence of a written procedure (Note: there is no requirement for this to be in English) and record of changeover to fuel oil with a sulphur content of not more than 0.10% m/m before entering the ECA such that this fuel is being burnt **when** entering the ECA **and** the volume of low sulphur fuel oils in each tank as well as the date, time, and position of the ship when any fuel-oil-change-over operation is completed prior to the entry into an ECA or commenced after exit from such an area, shall be recorded in such log-book as prescribed by the Administration. (MARPOL Annex VI Reg 14 (6))

For the vessels operating in climate conditions with low temperature of air and/or water or expecting low temperature of air and/or water the PSCO may pay special attention to the following:

1. Existing pipelines for required fuel oil with a sulphur content of not more than 0.10% m/m delivery to machinery space are located or equipped with appropriate heating facilities to provide operation of the pipelines in low temperature conditions of air and/or water.

2. Written procedures of changeover to fuel oil with a sulphur content of not more than 0.10% m/m before entering the ECA include actions to provide that fuel delivery to machinery space in conditions of low temperature of air and/or water.
3. Any possibility of unavailability of fuel oil with a sulphur content of not more than 0.10% m/m due to possible considerable changing of weather conditions during all times of ship operation in ECA is excluded.

If either of the above shows a non-compliance the PSCO will conduct a More Detailed Inspection. The burning of non-compliant fuel in an ECA constitutes an unreasonable threat of harm to the environment and is of such a serious nature it may result in detention.

The master may claim that it was not possible to bunker the correct fuel prior to entering the ECA. If this is the case the master/owner must:

Present a record of actions taken to attempt to bunker correct fuel and provide evidence of an attempt to purchase compliant fuel in accordance with it's voyage plan and, if it was not made available where planned, that attempts were made to locate alternative sources for such fuel oil and that despite best efforts to obtain compliant fuel oil, no such fuel oil was made available for purchase.

Best efforts to procure compliant fuel oil include, but are not limited to, investigating alternate sources of fuel oil prior to commencing the voyage or enroute prior to entering the ECA. If, despite best efforts, it was not possible to procure compliant fuel oil prior to entering the ECA, the master/owner must notify the Port State Administration in the port of arrival in the ECA and the flag Administration. (Annex VI Regulation 18.2.4).

The notification should be made to the port of destination within the ECA or port of destination after transiting an ECA

The master/owner may provide evidence as below to support their claim (not exhaustive):

- A copy (or description) of the ship's voyage plan in place at the intended time of entry into the ECA, including the vessel's port of origin and port of destination;
- When the vessel first received notice it would be conducting a voyage involving transit/arrival in the ECA, and the vessel's location when it first received such notice;
- The date and time the ship expects to enter and exit the ECA;

- A description of the actions taken to attempt to achieve compliance prior to entering the ECA, including a description of all attempts that were made to locate alternative sources of compliant fuel oil, and a description of the reason why compliant fuel oil was not available (e.g., compliant fuel oil was not available at ports on "intended voyage;" fuel oil supply disruptions at port; etc. Cost of compliant fuel oil is not considered to be a valid basis for claiming the non-availability of compliant fuel oil).
- Include names and addresses of the fuel oil suppliers contacted and the dates on which the contact was made;
- In cases of fuel oil supply disruption, the name of the port at which the vessel was scheduled to receive compliant fuel oil and the name of the fuel oil supplier that is now reporting the non-availability of compliant fuel oil;
- The availability of compliant fuel oil at the first port-of-call in the ECA and plans to obtain that fuel oil;
- If the vessel has operated in the ECA in the last 12 months, provide the names of all ports visited, the dates of the port calls, and whether the vessel used compliant fuel oil;
- If applicable, identify and describe any operational constraints that prevented use of compliant fuel oil, for example with respect to viscosity or other fuel oil parameters.

The ship should not be required to **deviate** from its intended voyage or to **unduly delay** the voyage in order to achieve compliance.

If a ship provides the information as above, a Party shall take into account all relevant circumstances and the evidence presented to determine the appropriate action to take, including **not taking control measures**.

A Party shall notify the Organization when a ship has presented evidence of the non-availability of compliant fuel oil.