

THE MARPOL 2020 ‘GLOBAL SULPHUR CAP’ AND ‘NO TRANSITION PERIOD’ COMPLIANCE.

Maritime Mutual Risk Bulletin No. 19

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INTRODUCTION

MM's Risk Bulletin No.7 (Feb 2019) alerted members to the urgent necessity to ensure full compliance with the IMO's [MEPC.1/Circ.878](#) requiring the urgent preparation of a MARPOL 2020 Ship Implementation Plan (SIP). This Risk Bulletin No 19 is intended to remind all MM members, their ship managers, masters and chief engineers that strict compliance with MARPOL 2020 will be globally initiated and enforced on 1 Jan 2020. Any failure to do so will likely lead to members' vessels being detained and fined heavily. Non-compliance could also impact negatively on MM insurance cover.

BACKGROUND

Members should, by now, be fully aware of the detailed content of Annex VI of MARPOL. This regulation sets out the 1 Jan 2020 requirement for all ships to utilize bunker fuel with a Sulphur content of not more than 0.5% instead of the bunker fuel now being used with a MARPOL authorised Sulphur content of 3.5%. The new 0.5% limit will apply in all waters and to all ships with the exception of the even lower Sulphur content 0.1% limit which applies within the Emission Control Areas (ECA's) established in European, North American and Caribbean waters under IMO terms and prevailing national law. The IMO has also adopted a strict prohibition on the carriage of non-compliant fuel oil from 1 March 2020.

The only MARPOL 2020 alternative to the use of 0.5% Sulphur bunker fuel is for an MM shipowner member to fit approved exhaust scrubber units to their ships. Due to high installation and operating costs, this option has been elected by only a small minority of world fleet shipowners. It is therefore not discussed further in this Risk Bulletin.

COMPLIANCE OBLIGATIONS

As a starting point, it is necessary to understand that the MARPOL Convention and its now six separate Annexes (regulating six different aspects of ship source pollution) are applicable to all of the ships flying the flag of ratifying nation states regardless of their size or trade. Thus, unlike the SOLAS Convention, MARPOL applies to all commercial vessels in international trade, inclusive of those under 500 GT, as well as to all vessels engaged in domestic coastal trade. The only situation in which this would not apply is where a flag state had not adopted Annex VI of MARPOL or had entered a formal reservation with the IMO restricting the scope of compliance.

Note: It was informally announced in July 2019 that Indonesia would be exempting all domestic trade vessels from the 0.5% Sulphur bunker fuel requirement. This announcement has now been formally reversed by the Indonesian Directorate General of Sea Transportation by way of a formal [SeaCom Circular of 18 Oct 2019](#). Indonesian members and owners of both international and domestic trade vessels will therefore be required to comply fully with MARPOL 2020 by the respective dates of 1 Jan 2020 and 1 Mar 2020 as described above.

The MARPOL 2020 Annex VI compliance obligations are complex. Full details are posted on the IMO website with the starting point for advice at [MARPOL Annex VI Air Pollution Convention](#). Patience and diligence are required to review and understand all of the requirements of Annex VI and the numerous IMO Circulars which have been appended to Annex VI to bring up to date with current environmental and technical research. Members should therefore confer closely with both their flag state authority and their classification society to establish precisely what their flag state requirements are. They must then

ensure their vessels will be in full MARPOL 2020 compliance by the due dates of 1 Jan 2020 and 1 Mar 2020 as referred to above.

MM members are also respectfully reminded that both the legal and insurance terms obligations of regulatory compliance are personal to the member and their ship managers. In English and New Zealand law, these obligations may not be delegated to another party. As such, any error or negligence on the part of a member's flag state authority or classification society which occasions or leads to a non-compliance with MARPOL 2020 must ultimately be construed as being the personal non-compliance of the member and/or their ship managers.

INTERNATIONAL CHAMBER OF SHIPPING (ICS) GUIDANCE

The ICS is a highly respected NGO based in London which represents global shipowner interests and is formally accorded Observer status at the IMO. The ICS have produced a very comprehensive publication for the owners of ships who have chosen to meet their MARPOL 2020 obligations by using Low Sulphur 0.5% distilled or blended fuels. A full copy is available at [*Guidance to Shipping Companies and Crews on Preparing for Compliance with the 2020 'Global Sulphur Cap' for Ships' Fuel Oil in Accordance with MARPOL Annex VI.*](#)

The content of the ICS Guidance was updated in July 2019. It provides a comprehensive and current guide to understanding the legal, technical and operational requirements necessary to achieve full compliance with MARPOL 2020. MM is therefore pleased to recommend the ICS Guidance publication to its members, their ship managers, masters and chief engineers as essential knowledge for reading, learning and application.

JOINT INDUSTRY GUIDANCE

In addition to the ICS Guidance, MM members should also be aware of the excellent [Joint Industry Guidance \(JIC\) on the Supply and Use of 0.5% Sulphur Marine Fuel](#) which has been produced with the sponsorship of IACS, IUMI, IMAREST and other well-known international shipping and insurance associations. The JIC text is more technical than the ICS Guidance. It could therefore be considered as a supplementary guide for Chief Engineers and Technical Superintendents.

LOW SULPHUR 0.5% (ISO 8217:2017) FUEL AND ENGINE DAMAGE

Members are directed to the detail provided by the ICS Guidance regarding the selection and use of the new fuels which are being distilled and blended by oil refineries to meet the upcoming Low Sulphur 0.5% fuel demand. A problem which is described is that even though the vessel may be supplied with what has been designated as ISO 8217:2017 compliant fuel, it may be incompatible with other ISO 8217 fuel already on board. Mixing can result in sedimentation and sludge and the associated risk of engine failure and damage.

Segregation and testing are the only practical solution to the above problem as the ISO 8217 quality standard is insufficient to ensure fuel compatibility when bunkering in different regions and from different sources. Other ISO 8217 fuel issues include inadequate engine lubrication. These issues all need to be carefully reviewed together with engine manufacturers and fuel suppliers. Their recommendations should then be recorded, documented and actioned on board the members' vessels. Failure to do so could be construed as a member's failure to exercise due diligence.

ISM CODE AND SMS PROCEDURES

Members are alerted to the fact that the IMO 2020 'Global Sulphur Cap' regulatory changes will impact significantly on both the maintenance and the operational procedures on board the ships in their fleet. The ISM Code and SMS Procedures were designed to support effective and safe regulatory compliance. It is therefore essential that a careful and comprehensive review of existing SMS Procedures should be conducted by the DPA, masters, chief engineers and shipboard safety officers. Their goal must be to ensure these Procedures are formally updated to reflect and facilitate the MARPOL 2020 bunker fuel transition obligations as well as the on-going operational processes set out in the approved shipboard SIPs and engine manufacturer's recommendations.

CONCLUSION AND TAKEAWAY

The enforcement of the 'no transition period' compliance required by the IMO's MARPOL 2020 shift to the obligatory use of 0.5% bunker fuel is now only weeks away. MM members should therefore have already checked their regulatory obligations with their flag state authority and class society together with their ability to document and demonstrate their MARPOL 2020 compliance. If not, then priority attention is essential to avoid prospective vessel detention by Port State Control and/or Maritime Authority fines for breach of regulation.

MM members must also be mindful of the obligations contained within the Club Rules and associated insurance law that they must always ensure full compliance with all IMO Conventions and applicable

maritime regulation. There must also be no want of due diligence in the management of the vessel. A proper understanding of the content of MARPOL Annex VI and all associated IMO Circulars is therefore essential. The aforementioned ICS Guidance publication will support this process.