Ocean Going Vessels
Fuel Switch At Berth

Compliant Fuel

Air Pollution Control (Ocean Going Vessels) (Fuel at Berth) Regulation comes into operation on

1 July 2015
Why do we require ocean going vessels to switch fuel at berth?
Marine vessels are the largest local air emission source. The sulphur dioxide (SO$_2$) emissions at berth account for about 40% of the total SO$_2$ emissions of ocean going vessels (OGVs) when staying in Hong Kong. Burning low sulphur marine fuels while berthing can help improve air quality.

What is the Regulation about?
The Air Pollution Control (Ocean Going Vessels)(Fuel at Berth) Regulation (the Regulation) (Cap. 311AA) prohibits OGVs from using non-compliant fuel for operating any specified machinery during the prohibition period, i.e. the berthing period except the first hour and the last hour.

What is an ocean going vessel?
An ocean going vessel is a vessel that:
(a) holds a certificate in the form prescribed by the International Convention for the Safety of Life at Sea, 1974 as amended from time to time;
(b) holds a certificate other than (a) above issued by a government authority of the Mainland permitting it to sail along the coast of the Mainland; or
(c) is of 500 gross tonnage or over and holds a certificate other than (a) or (b) above issued by a government authority of a place outside Hong Kong.

What are compliant and non-compliant fuels?
Compliant fuel means any of the following:
(a) low sulphur marine fuel, i.e. marine fuel with sulphur content not exceeding 0.5% by weight;
(b) liquefied natural gas; or
(c) any other fuel approved by the Director of Environmental Protection (DEP) on the ground that its use can achieve SO$_2$ reduction at least as effectively as the use of low sulphur marine fuel.

Non-compliant fuel means any fuel other than compliant fuel.

What is specified machinery?
Specified machinery, in relation to a vessel, means the main engine (except when it is used for the propulsion of the vessel), the auxiliary engine, the boiler and the generator.

What is berthing period?
Berthing period, in relation to a vessel, means the period from the moment the vessel is securely anchored or moored at a berth to the moment the vessel is untied from its berth. A berth means a place in the waters of Hong Kong at which the vessel is not underway.
What documents must be kept on board a vessel?
The following documents must be kept on board a vessel for 3 years:
(a) the bunker delivery note that relates to any marine fuel delivered to the vessel;
(b) the log book(s) recording the date and time of arrival, date and time of departure, date and completion time of switching to compliant fuel, and date and commencement time of switching to non-compliant fuel; and
(c) for any unexpected event causing delay in departure of a vessel, a description of the event and the expected date and time of departure of the vessel.

Are there any non-applications?
The regulation does not apply to
(a) a vessel plying exclusively within river trade limits;
(b) a warship or any other vessel on military service;
(c) a vessel that only sails across the waters of Hong Kong without berthing; or
(d) a vessel that does not carry any compliant fuel but enters the waters of Hong Kong solely for the purpose(s) of reducing risks to the safety of the vessel concerned, sheltering from stress of weather or landing a sick or injured person, provided that the owner or master of the vessel has notified the Director of Marine of such purpose(s) before the vessel enters the waters of Hong Kong.

Are there any exemptions?
A vessel may be exempted from using compliant fuel if that vessel uses technology which can reduce SO₂ reduction at least as effectively as using low sulphur marine fuel or the compliance with the fuel switch at berth requirement will pose a risk to the safety of the vessel.

Application for exemption must be in writing in a specified form with supporting documents to the Environmental Protection Department at least 14 days in advance.

Arrival: the moment when the OGV is first securely moored or anchored
Departure: the moment when the OGV is untied from its berth
Berthing period: the period between arrival and departure
What are the offences and penalties?
The offences of the regulation and its maximum penalty are listed as below.

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<thead>
<tr>
<th>Offences</th>
<th>Maximum Penalty</th>
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<tr>
<td>Using non-compliant fuel during the prohibition period</td>
<td>A fine of $200,000 and imprisonment for 6 months</td>
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<tr>
<td>Failing to record the required particulars in the log book without reasonable excuse</td>
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<tr>
<td>Failing to keep the required documents on board and make them available for inspection without reasonable excuse</td>
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<tr>
<td>Failing to comply with a notice issued by the DEP without reasonable excuse</td>
<td>A fine at level 5 (i.e. $50,000) and imprisonment for 3 months</td>
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<td>Submitting a copy of a document which is false or misleading in purported compliance with a notice issued by the DEP</td>
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<tr>
<td>Providing false or misleading information or document in an application for exemption</td>
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Are there defences for an offence of using non-compliant fuel?
The Regulation provides defences for a defendant charged with using non-compliant fuel during the prohibition period.

Enquiry
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