



NIUE SHIP REGISTRY

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GUIDANCE FOR PORT STATE CONTROL ON CONTINGENCY MEASURES FOR ADDRESSING NON-COMPLIANT FUEL OIL (INCLUDING FONAR FORM) (Circular NMC5.2019 (rev1))

PURPOSE:

To disseminate the approved IMO guidance MEPC.1/Circ.881, dated 21 May 2019 for Port State Control on contingency measure for addressing non-compliant fuel oil.

BACKGROUND:

The guidance covers possible actions to be taken, following discussions between ship, flag state and port state when a ship is found to have onboard non-compliant fuel oil either as a consequence of compliant fuel oil is not available when the ship bunkered fuel oil or the ship identifying through post bunkering testing that the fuel oil on board is non-compliant.

It is envisaged that there will be potential non-availability situations especially in the early stages of 2020. MARPOL Annex VI Regulation 18.2 states that a ship should not be forced to deviate or unduly delay its voyage if, despite reasonable efforts, it cannot bunker compliant fuel oil. With that in mind, the IMO developed the Fuel Oil Non-Availability Report (FONAR) Form for reporting non-availability for when a ship is unable to obtain compliant fuel oil.

However, it is to be noted that a FONAR is not an exemption from compliance with the sulphur limit. The ship is still non-compliant, but enforcement officers may take into consideration the approach stipulated in MARPOL Annex VI Regulation 18.2.

Ship Owners / Operators are also advised to note that after a March 2020 (where the "carriage ban comes into force), ships with any non-compliant fuel oil arriving at a port where compliant fuel oil is available, will need to get the non-compliant fuel oil removed regardless of whether FONAR is applicable or not. Not all ports will provide discharge facilities for the reception of the non-compliant fuel oil, and even if discharge facilities are available, the owners may not be able to recoup the value of the noncompliant fuel oil. In addition to that, the cost may need to be incurred for the cleaning of the fuel oil tank before loading of compliant fuel oil to avoid contamination.

With the above in mind, the usage of FONAR should be considered as a last resort akin to an emergency measure.

REFERENCES:

- (a) IMO MEPC.1/Circ.881, dated 21 May 2019 – appended
- (b) FONAR - appended

Please do not hesitate to contact the Registry at operations@niueship.com or call: +65 6226-2001 for clarification.

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MEPC.1/Circ.881
21 May 2019

**GUIDANCE FOR PORT STATE CONTROL ON CONTINGENCY MEASURES FOR
ADDRESSING NON-COMPLIANT FUEL OIL**

1 The Marine Environment Protection Committee, at its seventy-fourth session (13 to 17 May 2019), approved the *Guidance for port State control on contingency measures for addressing non-compliant fuel oil*, as set out in the annex.

2 Member Governments are invited to bring the annexed Guidance to the attention of their Administration, industry, relevant shipping and fuel industry organizations, shipping companies and other stakeholders concerned, as appropriate.

ANNEX

GUIDANCE FOR PORT STATE CONTROL ON CONTINGENCY MEASURES FOR ADDRESSING NON-COMPLIANT FUEL OIL

1 In the case of non-compliant fuel oil, communication between the ship and the port State should occur. The ship and the port State should consider the following as possible contingency measures:

- .1 actions predetermined in the Ship implementation plan, if available, for consistent implementation of the 0.50% sulphur limit under MARPOL Annex VI (MEPC.1/Circ.878);
- .2 discharging non-compliant fuel oil to another ship to be carried as cargo or to an appropriate shipboard or land-based facility, if practicable and available;
- .3 managing the non-compliant fuel oil in accordance with a method acceptable to the port State; and
- .4 operational actions, such as modifying sailing or bunkering schedules and/or retention of non-compliant fuel oil on board the ship. The port State and the ship should consider any safety issues and avoid possible undue delays.

2 Having considered all of the options in paragraph 1 above, the non-compliant fuel oil may be discharged to the port or retained on board, as acceptable to the port State. Port State consideration may include environmental, safety, operational and logistical implications of allowing or disallowing the carriage of non-compliant fuel oil. The carriage of non-compliant fuel oil is subject to any conditions of the port State.

3 The port State, the flag State and the ship should work together to agree on the most appropriate solution, taking into account the information provided in the Fuel Oil Non-Availability Report (FONAR),* to address the non-compliant fuel oil.

4 After the non-compliant fuel oil is completely used or discharged, such actions should include the possibility of cleaning and/or flushing through or dilution of remaining residues by using compliant fuel oil with the lowest sulphur content available.

* Appendix 1 of the 2019 Guidelines for consistent implementation of the 0.50% sulphur limit under MARPOL Annex VI (MEPC.320(74)).

APPENDIX 1

FUEL OIL NON-AVAILABILITY REPORT (FONAR)

Note:

1 This report is to be sent to the flag Administration and to the competent authorities in the relevant port(s) of destination in accordance with regulation 18.2.4 of MARPOL Annex VI. The report shall be sent as soon as it is determined that the ship/operator will be unable to procure compliant fuel oil and preferably before the ship leaves the port/terminal where compliant fuel cannot be obtained. A copy of the FONAR should be kept on board for inspection for at least 36 months.

2 This report should be used to provide evidence if a ship is unable to obtain fuel oil compliant with the provisions stipulated in regulations 14.1 or 14.4 of MARPOL Annex VI.

3 Before filing a FONAR, the following should be observed by the ship/operator:

3.1 A fuel oil non-availability report is not an exemption. According to regulation 18.2 of MARPOL Annex VI, it is the responsibility of the Party of the destination port, through its competent authority, to scrutinize the information provided and take action, as appropriate.

3.2 In the case of insufficiently supported and/or repeated claims of non-availability, the Party may require additional documentation and substantiation of fuel oil non-availability claims. The ship/operator may also be subject to more extensive inspections or examinations while in port.

3.3 Ships/operators are expected to take into account logistical conditions and/or terminal/port policies when planning bunkering, including but not limited to having to change berth or anchor within a port or terminal in order to obtain compliant fuel.

3.4 Ships/operators are expected to prepare as far as reasonably practicable to be able to operate on compliant fuel oils. This could include, but is not limited to, fuel oils with different viscosity and different sulphur content not exceeding regulatory requirements (requiring different lube oils) as well as requiring heating and/or other treatment on board.

1 Particulars of ship

1.1 Name of ship: _____

1.2 IMO number: _____

1.3 Flag: _____

1.4 (if other relevant registration number is available, enter here): _____

2 Description of ship's voyage plan

2.1 Provide a description of the ship's voyage plan in place at the time of entry into "country X" waters (and ECA, if applicable) (Attach copy of plan if available):

2.2 Details of voyage:

1 – Last port of departure

2 – First port of arrival in "country X":

3 – Date of departure from last port (dd-mm-yyyy):

4 – Date of arrival at first "country X" (dd-mm-yyyy):

5 – Date ship first received notice that it would be transiting in "country X" waters
(and ECA, if applicable) (dd-mm-yyyy):

6 – Ship's location at the time of notice:

7 – Date ship operator expects to enter "country X" waters (and ECA, if applicable)
(dd-mm-yyyy):

8 – Time ship operator expects to enter "country X" waters (and ECA, if applicable)
(hh:mm UTC):

9 – Date ship operator expects to exit "country X" waters (and ECA, if applicable)
(dd-mm-yyyy):

10 – Time ship operator expects to exit "country X" waters (and ECA, if applicable)
(hh:mm UTC):

11 – Projected days ship's main propulsion engines will be in operation within
"country X" waters (and ECA, if applicable):

12 – Sulphur content of fuel oil in use when entering and operating in "country X"
waters (and ECA, if applicable):

3 Evidence of attempts to purchase compliant fuel oil

3.1 Provide a description of actions taken to attempt to achieve compliance prior to entering "country X" waters (and ECA, if applicable), 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:

3.2 Name and email address of suppliers contacted, address and phone number and date of contact (dd-mm-yyyy):

Please attach copies of communication with suppliers (e.g. emails to and from suppliers)

4 In case of fuel oil supply disruption only

4.1 Name of port at which ship was scheduled to receive compliant fuel oil:

4.2 Name, email address, and phone number of the fuel oil supplier that was scheduled to deliver (and now reporting the non-availability): _____

5 Operation constraints, if applicable

5.1 If non-compliant fuel has been bunkered due to concerns that the quality of the compliant fuel available would cause operational or safety problems on board the ships, the concerns should be thoroughly documented.

5.2 Describe any operational constraints that prevented use of compliant fuel oil available at port:

5.3 Specify steps taken, or to be taken, to resolve these operational constraints that will enable compliant fuel use:

6 Plans to obtain compliant fuel oil

6.1 Describe availability of compliant fuel oil at the first port-of-call in "country X", and plans to obtain it:

6.2 If compliant fuel oil is not available at the first port-of-call in "country X", list the lowest sulphur content of available fuel oil(s) or the lowest sulphur content of available fuel oil at the next port-of-call:

7 Previous Fuel Oil Non-Availability Reports

7.1 If shipowner/operator has submitted a Fuel Oil Non-Availability Report to "country X" in the previous 12 months, list the number of Fuel Oil Non-Availability Reports previously submitted and provide details on the dates and ports visited while using non-compliant fuel oil, as set out below:

Report: _____
Date (dd-mm-yyyy): _____
Port: _____
Type of fuel: _____
Comments: _____

8 Master/Company information

Master name: _____
Local agent in "country X": _____
Ship operator name: _____
Shipowner name: _____
Name and position of official: _____
Email address: _____
Address (street, city, country, postal/zip code): _____
Telephone number: _____

Signature of Master: _____

Print name: _____
Date (DD/MM/YYYY): _____