

## 2015: dawn of a new era of low-emission shipping

In a series of articles, **Beth Bradley** and **Chris Moxon** examine the legal issues arising from the modern drive for environmentally aware shipping, following the entry into force on 1 January 2015 of the requirement for 0.1% sulphur in fuel oil within designated Emission Control Areas (ECAs).

### Issue 1: strong compliance in the first few months?

Since 1 January 2015, Annex VI of the International Convention for the Prevention of Pollution from Ships (MARPOL) has required vessels operating in designated ECAs – the Baltic Sea, the North Sea, the English Channel, and the majority of the coast of the continental USA and Canada – to use fuel oil with a sulphur content no greater than 0.1%. Have there been any issues in compliance with these emissions regulations in the first few months of 2015?

In a nutshell, the answer would appear to be “not as many as expected”. The Waterways Police in Hamburg report that there has been a surprisingly high level of compliance. Perhaps the prospect of up to five years’ imprisonment under German law for the illegal release of emissions, or a fine of up to EUR 50,000 for offences relating to MARPOL Annex VI, have had the desired deterrent effect. The US Coast Guard (USCG) has, however, had a somewhat different experience, issuing a Safety Alert on 3 March 2015 that referred to “several reported incidents involving substantial machinery space fuel leakages while vessels were switching fuel oil to ensure compliance” and “many losses of propulsion...in different ports...associated with changeover processes and procedures”.

For those owners and operators who have opted for fuel switching as their method of compliance with MARPOL Annex VI, it is important to review and amend

their procedures for such switching on entry into ECAs, to prevent the type of teething problem mentioned by the USCG.

The implications stemming from such teething problems under charterparties and contracts under bills of lading are significant. In particular, losses of propulsion may expose owners or time charterers to claims under warranties as to seaworthiness and the condition of the vessel. Delays caused while fuel leakages or engine breakdowns are resolved, or during detentions by Port State Control for non-compliance with MARPOL Annex VI, could lead to arguments that the vessel is off-hire, or that time shall not count against laytime or, if the vessel is on demurrage, as demurrage.

The risk of these legal consequences materialising could be reduced to some extent by consulting the manufacturers of the machinery in question to ensure that their guidance for safe and reliable operation is being followed. In addition, it is worth noting that onboard inspections by port authorities will typically require sight of engine log books, bridge log books, the fuel oil changeover procedure (if applicable), bunker delivery notes, the oil record book, the SECA book and sounding tables, so it is essential that these documents are kept fully up to date.

Clyde & Co LLP  
The St Botolph Building  
138 Houndsditch  
London EC3A 7AR

T: +44 (0)20 7876 5000  
F: +44 (0)20 7876 5111

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### Further information

If you would like further information on any issue raised in this update please contact:



**Chris Moxon**  
E: [chris.moxon@clydeco.com](mailto:chris.moxon@clydeco.com)



**Beth Bradley**  
E: [bethan.bradley@clydeco.com](mailto:bethan.bradley@clydeco.com)

[www.clydeco.com](http://www.clydeco.com)