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**L.N. 2 of 2014**

**Air Pollution Control (Marine Light Diesel) Regulation**

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## **Air Pollution Control (Marine Light Diesel) Regulation**

(Made by the Secretary for the Environment under section 43 of the Air Pollution Control Ordinance (Cap. 311) after consultation with the Advisory Council on the Environment)

### **1. Commencement**

This Regulation comes into operation on 1 April 2014.

### **2. Interpretation**

In this Regulation—

**batch** (批次), in relation to marine light diesel, means a quantity that is homogeneous with regard to the parameters set out in—

- (a) the ISO specifications;
- (b) the Platts specifications; or
- (c) the motor vehicle diesel specifications;

**classification** (分類), in relation to marine light diesel, means classification—

- (a) according to—
  - (i) the ISO specifications; or
  - (ii) the Platts specifications; or
- (b) as motor vehicle diesel;

**document** (文件) includes a book, voucher, receipt or data material, or information that is recorded in a non-legible form but is capable of being reproduced in a legible form;

**goods in transit** (過境貨品) means marine light diesel that is brought into Hong Kong solely for the purpose of taking it out of Hong Kong and that remains at all times on the vessel, vehicle or aircraft that brought it into Hong Kong;

**ISO specifications** (ISO規格) means the specifications set out in Table 1 of the document ISO 8217:2012: “Petroleum products—Fuels (class F)—Specifications of marine fuels” published by the International Organization for Standardization;

**light diesel oil** (輕質柴油) has the same meaning as in section 69 of the Dutiable Commodities Ordinance (Cap. 109);

**marine light diesel** (船用輕質柴油) means any light diesel oil which is intended for use in a vessel;

**marine light diesel importer** (船油進口商) means a person who carries on a business of importing marine light diesel and of supplying marine light diesel;

**marine light diesel supplier** (船油供應商) means a person who carries on a business of supplying marine light diesel but is not a marine light diesel importer;

**motor vehicle diesel** (汽車柴油) means any light diesel oil which complies with the motor vehicle diesel specifications;

**motor vehicle diesel specifications** (汽車柴油規格) means the specifications set out in Schedule 1 to the Air Pollution Control (Motor Vehicle Fuel) Regulation (Cap. 311 sub. leg. L);

**Platts specifications** (普氏規格) means the specifications set out in the table entitled “FOB Singapore gasoil/diesel specifications” in the December 2013 edition of the document “Methodology and Specifications Guide—Asia Pacific & Middle East Refined Oil Products” published by Platts, a division of McGraw Hill Financial, New York, U.S.A.;

**supply** (供應) includes—

- (a) offer or expose for supply;
- (b) sale; and
- (c) offer or expose for sale;

**transaction** (交易) includes any dealing whether with or without consideration;

**transshipment goods** (轉運貨品) means any imported marine light diesel that—

- (a) is consigned on a through bill of lading or a through air waybill from a place outside Hong Kong to another place outside Hong Kong; and
- (b) is or is to be removed from the vessel, vehicle or aircraft in which it was imported, and, before being exported, is either—
  - (i) returned to the same vessel, vehicle or aircraft; or
  - (ii) transferred to another vessel, vehicle or aircraft, whether it is or is to be transferred directly between such vessels, vehicles or aircrafts or whether it is to be landed in Hong Kong after its importation and stored, pending exportation;

**vessel** (船隻) has the meaning given by section 2 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548).

### 3. Application

- (1) This Regulation does not apply in relation to any marine light diesel that is—
  - (a) goods in transit;
  - (b) transshipment goods; or
  - (c) solely for export or re-export.

- (2) In a prosecution for an offence under this Regulation, any marine light diesel that is found in Hong Kong is presumed, in the absence of evidence to the contrary, to be marine light diesel that is not—
- (a) goods in transit;
  - (b) transshipment goods; or
  - (c) solely for export or re-export.

#### **4. Supply of non-compliant marine light diesel prohibited**

- (1) A person commits an offence if the person supplies, or causes to be supplied, any marine light diesel that does not comply with Schedule 1.
- (2) Subsection (1) does not apply if the marine light diesel is supplied to a warship or any other vessel on military service.
- (3) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 5 and to imprisonment for 3 months.

#### **5. Marine light diesel importer to keep records**

- (1) A marine light diesel importer must—
  - (a) for each batch of marine light diesel that the importer imports—
    - (i) ensure that the batch is, on receipt by the importer, accompanied by a fuel quality test report complying with section 6(1); and
    - (ii) keep the report during the 3 years after the date of the receipt;
  - (b) for each batch of marine light diesel that the importer supplies or causes to be supplied—

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- (i) cause a fuel quality test report complying with section 6(2) to be issued for that batch before any marine light diesel is supplied or caused to be supplied from that batch;
    - (ii) assign a reference number to the report; and
    - (iii) keep the report during the 3 years after the date of the test; and
  - (c) for each transaction by which marine light diesel is acquired or supplied by the importer—
    - (i) ensure that the transaction is evidenced by a document containing the particulars specified in subsection (2); and
    - (ii) keep the document during the 3 years after the date of the transaction.
  - (2) The particulars required under subsection (1)(c)(i) are—
    - (a) the date of the transaction;
    - (b) the product name of each batch of marine light diesel acquired or supplied, from which the classification of the diesel may be ascertained;
    - (c) the quantity of each batch of marine light diesel acquired or supplied; and
    - (d) in the case of a supply, the name of the person to whom the marine light diesel is supplied.
  - (3) A marine light diesel importer must also, on or before the 15th day of each month, submit to the Authority a report containing information regarding each batch of marine light diesel supplied, or caused to be supplied, by the importer in the previous month, in a form specified by the Authority.

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- (4) A person who fails without reasonable excuse to comply with subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 1 month.
- (5) A person commits an offence if the person—
- (a) fails without reasonable excuse to comply with subsection (3); or
  - (b) in purported compliance with subsection (3)—
    - (i) submits a report which contains any information which the person knows to be incorrect or inaccurate in a material respect;
    - (ii) recklessly submits a report which contains any information which is incorrect or inaccurate in a material respect; or
    - (iii) knowingly omits any material information from a report submitted.
- (6) A person who commits an offence under subsection (5) is liable on conviction to a fine at level 5 and to imprisonment for 1 month.

## **6. Particulars to be contained in fuel quality test reports**

- (1) A fuel quality test report under section 5(1)(a)(i) must contain the following particulars—
- (a) the name of the issuer of the report;
  - (b) the date of the test; and
  - (c) the test methods and results of all parameters of the marine light diesel as set out in—
    - (i) the ISO specifications;
    - (ii) the Platts specifications; or
    - (iii) the motor vehicle diesel specifications.

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- (2) A fuel quality test report under section 5(1)(b)(i) must contain the following particulars—
- (a) the name of the issuer of the report;
  - (b) the date of the test;
  - (c) the reference number of the fuel tank from which the sample is taken;
  - (d) the test methods and results of the following parameters of the marine light diesel—
    - (i) density; and
    - (ii) sulphur content; and
  - (e) the classification of the marine light diesel.

#### **7. Marine light diesel supplier to keep records**

- (1) A marine light diesel supplier must for each transaction by which marine light diesel is acquired or supplied by the supplier—
- (a) ensure that the transaction is evidenced by a document containing the particulars specified in subsection (2); and
  - (b) keep the document during the 3 years after the date of the transaction.
- (2) The particulars required under subsection (1)(a) are—
- (a) the date of the transaction;
  - (b) the product name of each batch of marine light diesel acquired or supplied, from which the classification of the diesel may be ascertained;
  - (c) the quantity of each batch of marine light diesel acquired or supplied; and
  - (d) in the case of an acquisition, the name of the person from whom the marine light diesel is acquired.



- (3) A person who fails without reasonable excuse to comply with subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 1 month.

## **8. Authority may request records**

- (1) The Authority may, by notice in writing, require any person to submit to the Authority, within the time as specified in the notice, any report, document or other record which the person is required to keep under this Regulation.
- (2) A person commits an offence if the person—
  - (a) fails without reasonable excuse to comply with a notice under subsection (1); or
  - (b) in purported compliance with a notice under subsection (1)—
    - (i) submits a report, document or any other record which contains any information which the person knows to be incorrect or inaccurate in a material respect;
    - (ii) recklessly submits a report, document or any other record which contains any information which is incorrect or inaccurate in a material respect; or
    - (iii) knowingly omits any material information from a report, document or any other record which is submitted.
- (3) A person who commits an offence under subsection (2) is liable on conviction to a fine at level 5 and to imprisonment for 1 month.

**9. Determination of sulphur content of marine light diesel**

For the purposes of this Regulation, the sulphur content of marine light diesel (other than motor vehicle diesel) must be determined in accordance with the test method set out in any of the documents specified in Schedule 2.

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## Schedule 1

[s. 4]

### Specifications of Marine Light Diesel

1. Any marine light diesel must either be—
    - (a) light diesel oil which—
      - (i) complies with the specifications, except for sulphur content—
        - (A) defined for “Category ISO-F-DMA” in the ISO specifications; or
        - (B) defined for “Gasoil 0.05% Sulfur” in the Platts specifications; and
      - (ii) has a sulphur content not exceeding 0.05% by weight; or
    - (b) motor vehicle diesel.
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**Schedule 2**

[s. 9]

**Test Methods for Determining Sulphur Content**

1. EN ISO 20884:2011: “Petroleum products—Determination of sulfur content of automotive fuels—Wavelength-dispersive X-ray fluorescence spectrometry” published by the European Committee for Standardization
2. EN ISO 14596:2007: “Petroleum products—Determination of sulfur content—Wavelength-dispersive X-ray fluorescence spectrometry” published by the European Committee for Standardization
3. EN ISO 8754:2003: “Petroleum products—Determination of sulfur content—Energy-dispersive X-ray fluorescence spectrometry” published by the European Committee for Standardization
4. ASTM D7039-13: “Standard Test Method for Sulfur in Gasoline, Diesel Fuel, Jet Fuel, Kerosine, Biodiesel, Biodiesel Blends, and Gasoline-Ethanol Blends by Monochromatic Wavelength Dispersive X-ray Fluorescence Spectrometry” published by the ASTM International
5. ASTM D5453-12: “Standard Test Method for Determination of Total Sulfur in Light Hydrocarbons, Spark Ignition Engine Fuel, Diesel Engine Fuel, and Engine Oil by Ultraviolet Fluorescence” published by the ASTM International
6. ASTM D4294-10: “Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy Dispersive X-ray Fluorescence Spectrometry” published by the ASTM International



**WONG Kam-sing**  
Secretary for the Environment

9 January 2014

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### Explanatory Note

This Regulation provides for the specifications that must be met by marine light diesel (that is, light diesel oil which is intended for use in a vessel) supplied in Hong Kong. It also provides for the requirement on importers and suppliers of marine light diesel to keep records.

2. Sections 1, 2 and 3 are preliminary provisions which provide for the commencement, interpretation and application of this Regulation respectively.
3. Section 4 prohibits the supply of non-compliant marine light diesel in Hong Kong. The specifications for marine light diesel are set out in Schedule 1. In gist, marine light diesel must comply with any of the following 3 sets of specifications—
  - (a) those defined for “Category ISO-F-DMA” in ISO 8217:2012 published by the International Organization for Standardization;
  - (b) those defined for “Gasoil 0.05% Sulfur” in the FOB Singapore gasoil/diesel specifications published by Platts;
  - (c) those specified for motor vehicle diesel in the Air Pollution Control (Motor Vehicle Fuel) Regulation (Cap. 311 sub. leg. L).
4. Nevertheless, for the specifications in paragraph 3(a) and (b), the specification on sulphur content is not applied in this Regulation. Instead, the sulphur content of the marine light diesel concerned must not exceed 0.05% by weight.
5. Section 5 requires a marine light diesel importer (basically a person who carries on a business of importing and supplying marine light diesel) to keep records in respect of the marine light diesel imported or supplied by the importer. Two types of records are required—

- (a) fuel quality test report regarding the specifications of the marine light diesel; and
  - (b) transaction record regarding the acquisition and supply of the marine light diesel.
6. Section 5 also requires a marine light diesel importer to submit a monthly report to the air pollution control authority setting out information regarding each batch of marine light diesel supplied by the importer in the previous month.
7. Section 6 sets out the particulars which a fuel quality test report must contain.
8. Section 7 requires a marine light diesel supplier (basically a person, other than a marine light diesel importer, who carries on a business of supplying marine light diesel) to keep transaction records regarding the acquisition and supply of marine light diesel by the supplier.
9. Section 8 empowers the air pollution control authority to require by written notice the submission of records required to be kept under this Regulation.
10. Section 9 and Schedule 2 provide for the test methods for determining the sulphur content of marine light diesel other than motor vehicle diesel.