



STATUTORY INSTRUMENTS.

S.I. No. 273 of 2014



EUROPEAN UNION (SULPHUR CONTENT OF HEAVY FUEL OIL
AND GAS OIL) REGULATIONS 2014

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I, PHIL HOGAN, Minister for the Environment, Community and Local Government, in exercise of the powers conferred on me by Section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving effect to Directive 1999/32/EC¹, as amended, of the European Parliament and of the Council of 26 April 1999, hereby make the following Regulations—

Citation

1. These Regulations may be cited as the European Union (Sulphur Content of Heavy Fuel Oil and Gas Oil) Regulations 2014.

Definitions

2. (1) In these Regulations—

“Agency” means the Environmental Protection Agency established under section 19 of the Environmental Protection Agency Act 1992 (No. 7 of 1992);

“Commission” means the European Commission;

“Directive” means Directive 1999/32/EC of the European Parliament and of the Council relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC of 26 April 1999 as amended by Regulation (EC) No. 1882/2003², Directive 2005/33/EC³, Regulation (EC) No. 219/2009⁴, Directive 2009/30/EC⁵ and Directive 2012/33/EU⁶;

“Minister” means the Minister for the Environment, Community and Local Government;

“Regulations of 2003” means the Large Combustion Plants Regulations 2003 (S.I. No. 644 of 2003); and

“Regulations of 2012” means the European Union (Large Combustion Plants) Regulations 2012 (S.I. No. 566 of 2012).

(2) A word or expression which is used in these Regulations and which is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

¹O.J. No. L 121/13 of 11 May 1999

²O.J. No. L 284/1 of 31 October 2003

³O.J.No. L 191/59 of 22 July 2005

⁴O.J. No. L 87/109 of 31 March 2009

⁵O.J. No. L 140/88 of 5 June 2009

⁶O.J. No. L 327/1 of 27 November 2012

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 20th June, 2014.*

(3) A reference to an International Standard (ISO) is a reference to a standard published by the International Organisation for Standardisation; and

(4) A reference to a European Standard (EN) is a reference to an EN as adopted by the National Standards Authority of Ireland and published as an I.S. EN.

Purpose and Scope

3. (1) The purpose of these Regulations is to reduce the emissions of sulphur dioxide resulting from the combustion of certain types of liquid fuels and thereby to reduce the harmful effects of such emissions on human health and the environment.

(2) The limitations on the sulphur content of certain petroleum-derived liquid fuels as laid down in these Regulations shall not apply to:

- (a) fuels intended for the purposes of research and testing;
- (b) fuels intended for processing prior to final combustion; and
- (c) fuels to be processed in the refining industry.

Maximum sulphur content of heavy fuel oil

4. (1) A person or operator shall not use heavy fuel oil, the sulphur content of which exceeds 1% by mass.

(2) Until 31 December 2015, subject to appropriate monitoring of emissions by the Agency, paragraph 1 shall not apply to heavy fuel oils used:

- (a) in combustion plants that, on 27 November 2003, fell within the scope of the Regulations of 2003 and which comply with the emission limits for sulphur dioxide for such plants under those Regulations;
- (b) in combustion plants which fall within the scope of the National Emissions Reduction Plan previously notified to the Commission by the State under the Regulations of 2003 and the monthly average sulphur dioxide emissions of which do not exceed 1,700 mg/NM³ at an oxygen content in the flue gas of 3% by volume on a dry basis;
- (c) in combustion plants which do not fall under paragraphs (a) or (b), and the monthly average sulphur dioxide emissions of which do not exceed 1,700 mg/NM³ at an oxygen content in the flue gas of 3% by volume on a dry basis;
- (d) for combustion in refineries, where the monthly average of emissions of sulphur dioxide averaged over all combustion plants in the refinery, irrespective of the type of fuel or fuel combination used, but excluding plants which fall under paragraphs (a) and (b), gas turbines and gas engines, do not exceed 1,700 mg/NM³ at an oxygen content in the flue gas of 3% by volume on a dry basis.

(3) As from 1 January 2016, subject to appropriate monitoring of emissions by the Agency, paragraph 1 shall not apply to heavy fuel oils used:

- (a) in combustion plants which fall within the scope of the Regulations of 2012 and which comply with the emission limits for sulphur dioxide for such plants, or where those emission limit values are not applicable according to those Regulations, for which the monthly average sulphur dioxide emissions do not exceed 1,700 mg/NM³ at an oxygen content in the flue gas of 3% by volume on a dry basis;
- (b) in combustion plants which do not fall under paragraph (a), and the monthly average sulphur dioxide emissions of which do not exceed 1,700 mg/NM³ at an oxygen content in the flue gas of 3% by volume on a dry basis;
- (c) for combustion in refineries, where the monthly average of emissions of sulphur dioxide averaged over all combustion plants in the refinery, irrespective of the type of fuel or fuel combination used, but excluding plants falling under paragraph (a), gas turbines and gas engines, do not exceed 1,700 mg/NM³ at an oxygen content in the flue gas of 3% by volume on a dry basis.

(4) No combustion plant shall use heavy fuel oil, the sulphur content of which exceeds 1% by mass, unless it is the subject of a current licence issued by the Agency that specifies appropriate emission limits.

Maximum sulphur content in gas oil

5. (1) A person shall not use gas oil the sulphur content of which exceeds 0.10% by mass.

(2) Paragraph (1) does not apply to—

- (a) gas oils falling within CN code 2710 19 41 and used for self-propelling vehicles as referred to in Directive 70/220/EEC and Directive 88/77/EEC, or
- (b) gas oils intended for use by non-road mobile machinery (including inland waterway vessels), agricultural and forestry tractors, and recreational craft.

Change in the supply of fuels

6. (1) The Minister shall inform the Commission if, as a result of a sudden change in the supply of crude oil, petroleum products or other hydrocarbons, it becomes difficult for the State to apply the limits on the maximum sulphur content for fuels referred to in Regulations 4 and 5.

(2) When informing the Commission under paragraph (1), the Minister may apply to seek authorisation from the Commission for a higher limit on the maximum sulphur content for fuels referred to in Regulations 4 and 5 to be applicable within the territory of the State for a period not exceeding six months.

Sampling of Fuels

7. (1) An officer of the Revenue Commissioners or an authorised person of the Agency may, at any place, take a sample of heavy fuel oil or gas oil, for the purposes of these Regulations.

(2) The authorised person or the officer of the Revenue Commissioners taking a sample shall—

- (a) notify forthwith an appropriate person that a sample is so taken, and
- (b) if so required by the appropriate person at the time of the giving of notification, divide the sample into two parts, seal and mark each part and leave one part with the appropriate person.

(3) In this article, “appropriate person” means the owner of, or any person who appears for the time being in charge of the premises from which the sample is taken.

Analysis of Fuels

8. The reference method for determining the sulphur content of heavy fuel oil and gas oil shall be ISO method 8754 (2003) or PrEN ISO 14596 (2007).

Offences

9. (1) A person or body who contravenes or fails to comply with a provision of these Regulations is guilty of an offence.

(2) Where an offence under these Regulations has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a person being a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

Penalties

10. A person guilty of an offence under these Regulations is liable on summary conviction to a fine not exceeding a class A fine or imprisonment for a term not exceeding 6 months, or to both such fine and such imprisonment.

Prosecutions

11. (1) An offence under these Regulations may be brought and prosecuted summarily by, as appropriate, the Agency or an officer of the Revenue Commissioners.

(2) Notwithstanding the provisions of section 10(4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under these Regulations may be initiated at any time within 2 years from the date of the commission of the offence.

Revocation

12. The following are revoked:

- (a) The Sulphur Content of Heavy Fuel Oil, Gas Oil, and Marine Fuels Regulations 2008 (S.I. No. 119 of 2008), and
- (b) The European Communities Act 1972 (Sulphur Content of Heavy Fuel Oil, Gas Oil, and Marine Fuels) (Amendment) Regulations 2011 (S.I. No. 156 of 2011).



GIVEN under my Official Seal,
16 June 2014.

PHIL HOGAN,
Minister for the Environment, Community and Local
Government.

EXPLANATORY NOTE

(This is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations transpose certain provisions of Directive 1999/32/EC, as amended by Regulation (EC) No. 1882/2003, Directive 2005/33/EC, Regulation (EC) No. 219/2009, Directive 2009/30/EC and Directive 2012/33/EU, relating to the use of heavy fuel oil and gas oil.

The purpose of the Directive and the Regulations is to reduce emissions of sulphur dioxide (SO²) resulting from the combustion of certain types of liquid fuels and thereby reduce the harmful effects of such emissions on human health and the environment.

The Regulations limit the sulphur content of certain petroleum derived fuels, as defined in the consolidated Directive 1999/32/EC, as a condition of their use within the territory of the State subject to relevant exemptions.

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