

CIRCULAR N.º 63

PORTUGUESE MARITIME ADMINISTRATION

SUBJECT | Procedure to be followed in case of non-availability of compliant fuel-oil

To | Shipowners, Companies, Charterers, Operators, Recognized Organizations and Masters of Portuguese flagged vessels

DISCLAIMER | This document is for information only and is not intended to interpret or replace the legal referenced documents published by official sources

REFERENCES | MARPOL Annex VI, Resolution MEPC.320(74), MEPC.1/Circ. 878

1. OBJECTIVE

The main objective of this circular is to give some additional guidance regarding the procedure to be followed by Portuguese Flagged vessels in case of non-availability of compliant fuel-oil as prescribed by MARPOL Annex VI.

2. APPLICATION

This Circular applies to all Portuguese Flagged vessels to which MARPOL Convention is applicable.

3. INTRODUCTION

Regulation 18.2.1 of MARPOL Annex VI provides that in the event compliant fuel oil cannot be obtained, a Party to MARPOL Annex VI can request evidence outlining the attempts made to obtain the compliant fuel oil, including attempts made to local alternative sources.

Regulations 18.2.4 and 18.2.5 then require that the ship notifies its Administration and the competent authority of the port of destination on the inability to obtain compliant fuel oil, with the Party to notify IMO of the non-availability.

4. REPORTING PROCEDURE

In the event of inability to obtain compliant fuel, despite its best effort, the Company/Master must immediately notify the Flag Administration and the Port State Administration of arrival port.

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Having in consideration the above, this section intends to define a common reporting procedure for all vessels in order to create a common base of understanding, avoiding unnecessary delays and flow of communications.

4.1. INFORMATION TO BE PROVIDED TO FLAG ADMINISTRATION AND PORT STATE:

Documents to be provided when reporting Fuel Non-Availability:

- **FONAR Form** (Appendix 1 of this Circular)
- **Evidences supporting FONAR Form contents**

4.2. ADDITIONAL REQUIREMENTS

Every time there is a need to send a FONAR Companies and Masters are required to fulfil Record Form of Appendix 2 of this Circular. This Form is to be provided on demand to Flag Administration and shall be kept on board along with FONAR.

5. INVESTIGATING NON-AVAILABILITY

Under section 5.1.6 of Resolution MEPC. 320(74) the Party should investigate the reports of non-availability.

In order to avoid ships to use ports where it is known that compliant fuel is not available on an ongoing basis, the Administration decided to have on special focus the following cases, but not limited to:

- Ships that reported more than 5 times during the last 3 years for Fuel Non-Availability;
- Ships that didn't take necessary measures when less than 30% of fuel capacity was available onboard.

6. EXEMPTIONS, WAIVERS AND EQUIVALENTS

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.

7. FLAG ADMINISTRATION CONTACT POINT

The Flag Administration contact point to be used by Companies/Masters is:

- marad@dgrm.mm.gov.pt copying to
- technical.mar@madeira.gov.pt

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Lisbon, 3 March 2020

The General Director of Natural Resources, Safety, and Maritime Services

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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.

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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):

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):

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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:

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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):

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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):

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APPENDIX 2

	Actual Port	Port 1	Port 2	Port 3	Port 4	Port 5
Port Name						
Date of Arrival (dd-mm/yyyy)						
Date of departure (dd-mm/yyyy)						
Qty. Of compliant fuel available onboard on arrival [ton]						
Average daily consumption [ton]						
When below 30% of capacity:						
Name of supplier contacted:						
Email of supplier contacted;						
Address of supplier contacted;						