STATUTORY RULES OF NORTHERN IRELAND

2014 No. 147

ENVIRONMENTAL PROTECTION

The Sulphur Content of Liquid Fuels (Amendment) Regulations (Northern Ireland) 2014

Made - - - -	*23rd May 2014*
Coming into operation -	*18th June 2014*

The Department of the Environment, being designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to the environment, makes the following Regulations in exercise of the powers conferred on it.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Sulphur Content of Liquid Fuels (Amendment) Regulations (Northern Ireland) 2014 and shall come into operation on 18th June 2014.

(2) The Interpretation Act (Northern Ireland) 1954(**c**) applies to these regulations as it applies to an Act of the Assembly.

Amendment of the Sulphur Content of Liquid Fuels Regulations (Northern Ireland) 2007

2. The Sulphur Content of Liquid Fuels Regulations (Northern Ireland) 2007(**d**) are amended in accordance with regulations 3 to 8.

Amendment of regulation 2 (interpretation)

3. For regulation 2 (interpretation) substitute—

"**2.**—(1) In these Regulations—

"combustion plant" means any technical apparatus in which fuels are oxidised in order to use the heat generated;

"Council Directive 1999/32/EC" means Council Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels and amending Council Directive 93/12/EEC;

"gas oil" means any petroleum-derived liquid fuel—

(a) that falls within CN code 2710 19 25, 2710 19 29, 2710 19 47, 2710 19 48, 2710 20 17 or 2710 20 19; or

(**a**) S.I. 2008/301
(**b**) 1972. c.68.
(**c**) 1954 c.33 (N.I.)
(**d**) S.R. 2007 No. 272

(b) of which less than 65 per cent by volume (including losses) distils at 250°C and of which at least 85 per cent by volume (including losses) distils at 350°C by the ASTM D86 method,

but excluding marine fuels, diesel fuels (as defined by Article 2(2) of Directive 98/70/EC of the European Parliament and of the Council relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC) and fuels used in non-road mobile machinery and agricultural tractors;

"heavy fuel oil" means any petroleum-derived liquid fuel—

(a) that falls within CN code 2710 19 51 to 2710 19 68, 2710 20 31, 2710 20 35 or 2710 20 39;

(b) which, by reason of its distillation limits, falls within the category of heavy oils intended for use as fuel and of which less than 65 per cent by volume (including losses) distils at 250°C by the ASTM D86 method; or

(c) where the distillation cannot be determined by the ASTM D86 method, that is categorised as heavy fuel oil,

but excluding marine fuel and gas oil;

"marine fuel" means any petroleum-derived liquid fuel intended for use or in use on board a vessel, including those fuels defined in ISO 8217;

"sulphur content of liquid fuels permit" has the meaning given in regulation 4(5)(b);

"the 2013 Regulations" means the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013;

(2) In paragraph (1)—

(a) "ASTM method" means a method laid down by the American Society for Testing and Materials in the 1976 edition of standard definitions and specifications for petroleum and lubricating products; and

(b) the reference to a numbered CN code is a reference to the code set out in Annex I to Council Regulation 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff;

(3) Expressions used in these Regulations that also appear in Council Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels as amended by Directive 2005/33/EC of the European Parliament and of the Council have the same meaning as they do in that Directive.

(4) The Interpretation Act (Northern Ireland) 1954 applies to these regulations as it applies to an Act of the Assembly."

Amendment of Regulation 4 (maximum sulphur content of heavy fuel oil)

4. For regulation 4 (maximum sulphur content of heavy fuel oil) substitute—

"**4.**—(1) No person shall use any heavy fuel oil that has a sulphur content exceeding 1 per cent by mass.

(2) Until 1st January 2016, paragraph (1) shall not apply to the use of heavy fuel oil—

(a) in a new plant that—

(i) is subject to Article 4(1) of Directive 2001/80/EC and is operated in accordance with a permit containing a condition that emission limit values for sulphur dioxide are at least as stringent as those set out for new plants in Part A of Annex IV of that Directive; or

(ii) is subject to Article 4(2) of Directive 2001/80/EC and is operated in accordance with a permit containing a condition that emission limit values for sulphur dioxide are at least as stringent as those set out for new plants in Part B of Annex IV of that Directive;

(b) in an existing plant—

(i) operated in accordance with a permit containing a condition that emission limit values for sulphur dioxide are at least as stringent as those set out for new plants in Part A of Annex IV of Directive 2001/80/EC; or

(ii) that is a participating plant operated in accordance with a permit containing a condition prohibiting the monthly average emissions of sulphur dioxide from the plant from exceeding 1,700 mg/Nm^3 at an oxygen content in the flue gas of 3 per cent by volume on a dry basis;

(c) in a combustion plant, other than a plant to which sub-paragraph (a) or (b) applies, that is operated in accordance with a permit containing a condition prohibiting the monthly average of emissions of sulphur dioxide from the plant from exceeding 1,700 mg/Nm^3 at an oxygen content in the flue gas of 3 per cent by volume on a dry basis; or

(d) in a combustion plant, other than a gas engine, a gas turbine or a plant to which sub-paragraph (a) or (b) applies, that—

(i) forms part of a refinery; and

(ii) is operated in accordance with a permit containing a condition that 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, does not exceed 1,700 mg/Nm^3 at an oxygen content in the flue gas of 3 per cent by volume on a dry basis.

(3) From 1st January 2016, paragraph (1) shall not apply to the use of heavy fuel oil—

(a) in a combustion plant that—

(i) falls within the scope of Chapter III of Directive 2010/75/EU; and

(ii) is operated in accordance with a permit containing a condition that emission limit values for sulphur dioxide are at least as stringent as those set out in Annex V to that Directive;

(b) in a combustion plant that—

(i) falls within the scope of Chapter III of Directive 2010/75/EU;

(ii) is not subject to the emission limit values for sulphur dioxide set out in Annex V to that Directive; and

(iii) is operated in accordance with a permit containing a condition prohibiting the monthly average emissions of sulphur dioxide from the plant from exceeding 1,700 mg/Nm^3 at an oxygen content in the flue gas of 3 per cent by volume on a dry basis;

(c) in a combustion plant, other than a plant to which sub-paragraph (a) or (b) applies, that is operated in accordance with a permit containing a condition prohibiting the monthly average emissions of sulphur dioxide from exceeding 1,700 mg/Nm^3 at an oxygen content in the flue gas of 3 per cent by volume on a dry basis; or

(d) in a combustion plant, other than a gas engine, a gas turbine or a plant to which sub-paragraph (a) or (b) applies, that—

(i) forms part of a refinery; and

(ii) is operated in accordance with a permit containing a condition that 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, does not exceed 1,700 mg/Nm^3 at an oxygen content in the flue gas of 3 per cent by volume on a dry basis.

(4) The enforcing authority that grants a permit referred to in paragraph (2) or (3) shall carry out appropriate monitoring of emissions of sulphur dioxide to ensure that the limitations on emissions contained in that permit are not exceeded.

(5) In this regulation—

"Directive 2001/80/EC" means Directive 2001/80/EC of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from large combustion plants;

"Directive 2010/75/EU" means Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (Recast);

"existing plant" and "new plant" have the meanings given in Article 2(10) and 2(9) respectively of Directive 2001/80/EC;

"gas engine" and "gas turbine" have the meaning given in Article 3(34) and 3(33) respectively of Directive 2010/75/EU;

"participating plant" has the meaning given in regulation 3(1)(c) of the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007;

"permit" means—

(a) if the operation of the combustion plant requires an authorisation or permit—

(i) an authorisation under Article 6 of the Industrial Pollution and Control (Northern Ireland) Order 1997; or

(ii) a permit granted under regulation 10 of the 2013 Regulations;

or

(b) a sulphur content of liquid fuels permit which—

(i) was granted for the purposes of the Sulphur Content of Liquid Fuels (Northern Ireland) Regulations 2002 and which is still subsisting; or

(ii) is granted under these Regulations.

(6) Schedule 1 (Sulphur content of liquid fuels permits) has effect.".

Amendment of Regulation 5 (maximum sulphur content in gas oil)

5. For regulation 5 (maximum sulphur content in gas oil) substitute—

"**5.** No person shall use any gas oil that has a sulphur content exceeding 0.1 per cent by mass.".

Amendment of Regulation 6 (sampling and analysis)

6. For regulation 6 (sampling and analysis) substitute—

"**6.**—(1) The Department shall take all necessary measures to ensure that periodic sampling is carried out of heavy fuel oil and gas oil and that the samples are analysed to check that the use of those fuels complies with regulations 4(1) and 5.

(2) Sampling shall be carried out with sufficient frequency and in such a way that the Department is satisfied that the samples are representative of the fuels examined.

(3) The samples shall be analysed without undue delay.

(4) The reference method adopted for determining the sulphur content of fuels sampled pursuant to paragraph (1) shall be defined by ISO method 8754 (2003) or EN ISO 14596 (2007).".

Amendment to Schedule 1 (sulphur content of liquid fuel permits)

7.—(1) Schedule 1 (sulphur content of liquid fuel permits) is amended as follows.

(2) In the heading to that Schedule for "Regulation 4(5)" substitute "Regulation 4(6)".

(3) In paragraph 1 for the words "an existing plant, new plant or other combustion plant" substitute "a combustion plant", and after "regulation 4(2)" add "or 4(3)".

(4) In paragraph 2(c) after "regulation 4(2)" add "or 4(3)".

(5) For paragraph 9 substitute—

"**9.** Regulation 7 of the 2013 Regulations (Discharge and scope of functions) shall apply to functions under these Regulations as it applies to functions under the 2013 Regulations."

Schedule 2 (technical requirements for analysis samples)

8. Schedule 2 (technical requirements for analysis samples) shall be deleted.

Sealed with the Official Seal of the Department of the Environment on 23rd May 2014.



Wesley Shannon
A senior officer of the Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Sulphur Content of Liquid Fuels (Northern Ireland) Regulations 2007 ("the 2007 regulations") which implement in Northern Ireland, matters concerning heavy fuel oil and gas oil (except marine fuel), in Council Directive 1999/32/EC (OJ L 121, 11.5.1999, p. 13) relating to a reduction in the sulphur content of certain liquid fuels and amending Council Directive 93/12/EEC. The amendments to the 2007 regulations transpose amendments to Council Directive 1999/32/EC made by Directive 2012/33/EU (OJ L 327, 27.11.2012, p. 1) of the European Parliament and of the Council as regards the sulphur content of marine fuels.

Regulation 3 amends the definitions of "gas oil", "heavy fuel oil" and "CN code" in regulation 2 (interpretation) of the 2007 regulations in order to transpose the definitions of these fuels in Council Directive 1999/32/EC as amended.

Regulation 4 amends regulation 4 of the 2007 regulations in order to transpose the amended derogations to the prohibition on the use of heavy fuel oil with a sulphur content exceeding 1 per cent by mass in Council Directive 1999/32/EC.

Regulation 5 amends regulation 5 of the 2007 regulations and removes a provision which prohibited the use of sulphur content exceeding 0.2 per cent by mass up until 31st December 2007.

Regulation 6 amends regulation 6 of the 2007 regulations, which deals with the duty of the Department to ensure that sampling is carried out of heavy fuel oil and gas oil to check that the use of those fuels complies with regulation 4(1). Regulation 6(2) inserts a requirement that sampling be carried out periodically. Regulation 6(4) inserts a new paragraph setting out the reference method to be adopted for determining the sulphur content of fuels sampled by the Department pursuant to the duty in regulation 6(1) of the 2007 regulations.

Regulation 7 makes minor consequential amendments to Schedule 1 of the 2007 regulations.

Regulation 8 deletes Schedule 2 of the 2007 regulations.

A regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.

Copies of the British Standards publications referred to in these Regulations may be obtained from any of the outlets operated by the British Standards Institution, or by post from the British Standards Institution at Standards House, 389 Chiswick High Road, London W4 4AL. The 1999 Annual Book at ASTM Standards is available from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428, USA.

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