

Directive 2005/33/EC of the European Parliament and of
the Council of 6 July 2005 amending Directive 1999/32/EC

DIRECTIVE 2005/33/EC OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

of 6 July 2005

amending Directive 1999/32/EC

as regards the sulphur content of marine fuels

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee⁽²⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽³⁾,

Whereas:

- (1) The Community's environmental policy, as set out in the action programmes on the environment and, in particular, in the Sixth Community Environment Action Programme adopted by Decision No 1600/2002/EC of the European Parliament and of the Council⁽⁴⁾, on the basis of Article 174 of the Treaty, aims to achieve levels of air quality that do not give rise to unacceptable impacts on, and risks to, human health and the environment.
- (2) Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels⁽⁵⁾ lays down the maximum permitted sulphur content of heavy fuel oil, gas oil and marine gas oil used in the Community.
- (3) Directive 1999/32/EC requires the Commission to consider what measures could be taken to reduce the contribution to acidification of the combustion of marine fuels other than marine gas oils and, if appropriate, make a proposal.
- (4) Emissions from shipping due to the combustion of marine fuels with high sulphur content contribute to air pollution in the form of sulphur dioxide and particulate matter, harming human health, damaging the environment, public and private property and cultural heritage and contributing to acidification.
- (5) Human beings and the natural environment in coastal areas and in the vicinity of ports are particularly affected by pollution from ships with high sulphur fuels. Specific measures are therefore required in this regard.

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- (6) The measures in this Directive complement Member States' national measures to comply with emission ceilings for atmospheric pollutants set out in Directive 2001/81/EC of the European Parliament and of the Council⁽⁶⁾.
- (7) Reducing the sulphur content of fuels has certain advantages for ships, in terms of operating efficiency and maintenance costs, and facilitates the effective use of certain emission abatement technologies such as selective catalytic reduction.
- (8) The Treaty requires consideration to be given to the special characteristics of the outermost regions of the Community, namely the French overseas departments, the Azores, Madeira and the Canary Islands.
- (9) In 1997, a diplomatic conference adopted a Protocol to amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (hereinafter MARPOL). This Protocol adds a new Annex VI to MARPOL, containing regulations for the prevention of air pollution from ships. The 1997 Protocol, and consequently Annex VI to MARPOL, entered into force on 19 May 2005.
- (10) Annex VI to MARPOL makes provision for certain areas to be designated as Sulphur Oxide Emission Control Areas (hereinafter SO_x Emission Control Areas). It already designates the Baltic Sea as such an area. Discussions within the International Maritime Organisation (IMO) have resulted in agreement on the principle of the designation of the North Sea, including the English Channel, as a SO_x Emission Control Area following the entry into force of Annex VI.
- (11) Given the global nature of maritime shipping, every effort should be made to find international solutions. Both the Commission and the Member States should endeavour to secure within the IMO a worldwide reduction in the maximum authorised sulphur content of marine fuels, including by examining the merits of designating new sea areas as SO_x Emission Control Areas in accordance with Annex VI to MARPOL.
- (12) Enforcement of the obligations with regard to the sulphur content of marine fuels is necessary to achieve the aims of this Directive. Effective sampling and dissuasive penalties throughout the Community are necessary to ensure credible implementation of this Directive. Member States should take enforcement action with respect to vessels flying their flag and to vessels of all flags while in their ports. It is also appropriate for Member States to cooperate closely to take additional enforcement action with respect to other vessels in accordance with international maritime law.
- (13) To allow sufficient time for the maritime industry to bring about technical adaptation to a maximum limit of 0,1 % sulphur by weight for marine fuels used by inland waterway vessels and ships at berth in Community ports, the date on which this requirement is to be applied should be 1 January 2010. Since this deadline might present Greece with technical problems, a temporary derogation is appropriate for some specific vessels operating within the territory of the Hellenic Republic.
- (14) This Directive should be seen as the first step in an ongoing process to reduce marine emissions, offering prospects for further emission reductions through lower fuel sulphur

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limits and abatement technologies, and for economic instruments to be developed as an incentive to achieve significant reductions.

- (15) It is essential to reinforce Member States' positions in IMO negotiations, in particular to promote, in the revision phase of Annex VI to MARPOL, the consideration of more ambitious measures as regards tighter sulphur limits for heavy fuel oils used by ships and the use of equivalent alternative emission abatement measures.
- (16) In its resolution A.926(22), the IMO Assembly invited Governments, particularly those in regions where SO_x Emission Control Areas have been designated, to ensure the availability of low sulphur bunker fuel oil in areas within their jurisdiction and to call on the oil and shipping industries to facilitate the availability and use of low sulphur bunker fuel oil. Member States should take action as appropriate to ensure that local marine fuel suppliers make compliant fuel available, in sufficient quantities to meet demand.
- (17) The IMO has adopted guidelines for the sampling of fuel oil for determining compliance with Annex VI to MARPOL, and is due to develop guidelines on exhaust gas cleaning systems and other technological methods to limit SO_x emissions in SO_x Emission Control Areas.
- (18) Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants⁽⁷⁾ recasts Council Directive 88/609/EEC⁽⁸⁾. Directive 1999/32/EC should be revised accordingly, as provided for in Article 3(4) thereof.
- (19) It is appropriate for the existing Committee on Safe Seas and the Prevention of Pollution from Ships established by Regulation (EC) No 2099/2002 of the European Parliament and of the Council⁽⁹⁾ to assist the Commission in the context of the approval of emission abatement technologies.
- (20) Emission abatement technologies, provided they have no adverse effect on ecosystems and are developed subject to appropriate approval and control mechanisms, can provide emission reductions at least equivalent to, or even greater than, those achievable using low sulphur fuel. It is essential that the correct conditions exist to promote the emergence of new emission abatement technologies.
- (21) The European Maritime Safety Agency should provide assistance to the Commission and Member States, as appropriate, in monitoring the implementation of this Directive.
- (22) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽¹⁰⁾.
- (23) Directive 1999/32/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

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- (1) [OJ C 45 E, 25.2.2003, p. 277.](#)
- (2) [OJ C 208, 3.9.2003, p. 27.](#)
- (3) Opinion of the European Parliament of 4 June 2003 ([OJ C 68 E, 18.3.2004, p. 311](#)), Council Common Position of 9 December 2004 ([OJ C 63 E, 15.3.2005, p. 26](#)), Position of the European Parliament of 13 April 2005 (not yet published in the Official Journal) and Council Decision of 23 May 2005.
- (4) [OJ L 242, 10.9.2002, p. 1.](#)
- (5) [OJ L 121, 11.5.1999, p. 13.](#) Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council ([OJ L 284, 31.10.2003, p. 1](#)).
- (6) [OJ L 309, 27.11.2001, p. 22.](#) Directive as amended by the 2003 Act of Accession.
- (7) [OJ L 309, 27.11.2001, p. 1.](#) Directive as amended by the 2003 Act of Accession.
- (8) [OJ L 336, 7.12.1988, p. 1.](#)
- (9) [OL L 324, 29.11.2002, p. 1.](#) Regulation as amended by Commission Regulation (EC) No 415/2004 ([OJ L 68, 6.3.2004, p. 10](#)).
- (10) [OJ L 184, 17.7.1999, p. 23.](#)