



## QUESTIONS FAQ

### *Decree-Law n. 69/2008, of 14 April*

*(The Directive 2005/33/EC, from the European Parliament and of the Council, of 6 July, amending Directive n.º 1999/32/CE as regards the sulphur content of marine fuels)*

**1) *The article 4.º-B has been implemented or when it is expected to be implemented?***

*The Directive 2005/33/EC, from the European Parliament and of the Council, of 6 July, which introduces specific measures as regards the sulphur content of marine fuels, has been transposed to the Portuguese internal law by Decree-Law n. 69/2008, of 14 April. Article 4-B of the mentioned decree-law, as regards to the maximum permitted sulphur content of marine fuels used by inland waterway vessels and ships at berth in Community ports, entered into force in 1/1/2010, being applied in Portugal, and the remainder Member States, from that date – 1/1/2010.*

**2) *Do these requirements apply to all ships?***

*Yes, the requirements apply to all ships irrespective of flag (EU or non-EU), ship type, and date of construction or tonnage.*

**3) *Is it required to use fuel with low sulphur (0.1% by mass) in port, only when the ship is moored or at anchor also?***

*Paragraph 2 of Article 4 of Decree-Law n. 69/2008, states that, from 1 January 2010, **ships at berth** in national ports, allowing sufficient time for the crew to complete any necessary fuel-changeover operation as soon as possible after arrival at berth and as late as possible before departure, can not use marine fuels with a sulphur content exceeding 0,1 % by mass.*

*According to sub-paragraph o) of Article 2 of Decree-Law n. 69/2008, the term “ships at berth means ships which are securely moored or anchored in a Community port*



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*while they are loading, unloading or hotelling, including the time spent when not engaged in cargo operations”.*

*It follows then that any ship which is securely moored or anchored within the area of jurisdiction of a national port must comply with Article 4-B of the Decree-Law n. 69/2008, of 14 April, except in the exception cases foreseen in n. 3 of article 4-B:*

- “a) Whenever, according to published timetables ships are due to be at berth for less than two hours;*
- b) To inland waterway vessels that carry a certificate proving conformity with the International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended, while those vessels are at sea;*
- c) To ships which switch off all engines and use shore-side electricity while at berth in ports.”*

#### **4) It is required to use fuel with low sulphur (0.1% by mass) in the inland waterways?**

*Paragraph 2 of Article 4 of Decree-Law n. 69/2008, states that, from 1 January 2010, inland waterways vessels can not use marine fuels with a sulphur content exceeding 0,1 % by mass.*

*Decree-Law No. 69/2008, refers nothing relative to the maximum sulphur content of marine fuels used by “vessels sailing in inland waterways”.*

*It is considered therefore that while the ship is navigating in inland waterway it doesn't need to use fuel with reduced sulphur content.*

#### **5) When will the change of fuel should occur?**

*According to sub-paragraph b) of paragraph 1 of Article 4.º-B of Decree-Law n. 69/2008, the fuel-changeover operation should occur as soon as possible of “**ship at berth**”.*

*The Decree-Law does not determine the time allowed for the change of fuel, since this will differ for different fuel mixes, the particular machinery arrangements and change-over procedures. Whatever procedures are to be followed these should start as soon as is reasonably possible upon arrival.*



**6) Is it required to have approved change-over procedures?**

*There should be established change-over procedures in order to meet the ISM Code<sup>1</sup> requirements. These would ensure that the correct sequence of operations is undertaken and would provide guidance as to the time required for the procedure to be undertaken. These procedures, however, do not need to be specifically approved.*

**7) In which ship's logbook should the entries be made?**

*According to paragraph 2, Article 4.º-B of Decree-Law nº 69/2008, when carrying out a fuel-changeover operation, the duration of this operation must be recorded in the logbook, or diary service machines, or other daily ship.*

**8) Would these change-over records be subject to inspection?**

*Yes, in addition to verifying that a fuel oil of the required sulphur content was being used it is fully expected that inspectors will pay special attention to the time when the necessary fuel-changeovers have been undertaken.*

**9) In port, if a ship has to wait for the supply of fuel for replacement of the same, how much time you have after mooring or at anchor?**

*Paragraph 1 of Article 4.º-B of Decree-Law n. 69/2008 does not provide for the possibility that the ship carried supplies of marine fuel with a sulphur content not exceeding 0.1% after moored or anchored in the port.*

*If the vessel is technically prepared to use marine fuel with a sulphur content not exceeding 0.1%, then the ship shall proceed with the supply of fuel before entering the jurisdiction of the port.*

*If such is not possible, for the safety of navigation, then it may do so after entering the port, being in such circumstances subject to the sanctions provided for in Article 10 of Decree-Law n. 69/2008, 14 April.*

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<sup>1</sup> Only in the case of ships covered by the ISM  
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**10) Does the change-over requirement apply to “ships at berth” for less than two hours?**

Generally, yes. The “two hours” exemption, as defined in sub-paragraph a) of paragraph 3 of Decree-Law No. 69/2008, only applies where there is a published timetable, i.e., in the case of passenger ships engaged in a series of crossings operated so as to serve traffic between the same two or more ports, or a series of voyages from and to the same port without intermediate calls and according to a published timetable.

**11) What engines or other combustion devices need to be changed-over to a 0.1% m/m maximum sulphur fuel oil?**

Only those engines, boilers, incinerators or other combustion devices which are to be used while the ship is ‘at berth’ need to be changed-over to a 0.1% m/m maximum sulphur fuel oil. Consequently, attention is also necessary to intermittently operated combustion machinery with separate, stand-alone, ready use tanks, such as incinerators, to ensure that the fuel in those tanks is duly compliant.

**12) In port, can the vessel be supplied with fuels with a sulphur content exceeding 0,1% by mass?**

No. Nº 4, article 4-B, of Decree-Law No. 69/2008, clearly refers that “From 1 January 2010 it cannot be placed in the national market marine diesel with a sulphur content exceeding 0,1% by mass”.

**13) Which is the entity responsible for the verification on board of the compliance with Decree-Law No. 69/2008?**

It is Instituto Portuário e dos Transportes Marítimos, I.P. (IPTM, I.P.) competency to verify, on board vessels flying the national flag and foreign vessels staying in national ports, the compliance of the requirements established in Decree-Law nº 69/2008, and, in particular, article 4-B. This competency is conferred by the same Decree-Law nº 69/2008.



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**14) In case of non-compliance, which are the sanctions the vessel may be subject to?**

*The sanction framework applied is established in article 10 of Decree-Law No. 69/2008.*