

# Compliance Strategy: Low sulfur fuel requirements for cruise ships in Sydney Harbour

## Background

The NSW Government is implementing a suite of initiatives to reduce health impacts from fine particles and diesel emissions, including emissions from shipping. One of these initiatives is a requirement for cruise ships to use low sulfur fuel in Sydney Harbour, similar to Emission Control Area requirements in parts of North America and Europe. Reducing sulfur is the key means of reducing sulfur oxide and fine particle pollution, which can impact on the health of local communities.

These new requirements are specified in Part 6A of the [Protection of the Environment \(Clean Air\) Regulation 2010](#) (the Clean Air Regulation) and commenced on 1 October 2015.

## Objective

To support compliance with the low sulfur fuel requirements for cruise ships under the *Clean Air Regulation* in an efficient, effective and transparent manner.

## Overall strategy

The NSW Environment Protection Authority (EPA) uses a risk-based regulatory framework and will use a range of approaches to monitor and support compliance. The EPA's Compliance Policy will form the framework for decisions under this compliance strategy. The strategy will also be supported by the [EPA's Prosecution Guidelines](#), when non-compliances are identified.

EPA authorised officers have a range of powers under the *Protection of the Environment (Operations) Act 1997* that assist the EPA to undertake its functions. The EPA's compliance activities will include: education; issuing notices; reviewing records; and announced and unannounced inspections of cruise ships and fuel suppliers by authorised officers.

The EPA has not previously regulated the cruise shipping industry with the level of intensity that will be required under the amended Regulation. The strategy's initial focus will be educating the industry about its compliance obligations and the role of the EPA. Education activities will include awareness-raising activities with the officers of cruise ships and broader industry information sessions.

The EPA will also be assessing compliance against the statutory requirements in Part 6A of the Clean Air Regulation and the conditions of any approvals or exemptions issued under Part 6A of the Regulation.

Inspections (similar to compliance audits) will be a key part of this strategy. The EPA will carry out these inspections as efficiently as practicable, in order to minimise disruption to the operation of ships and fuel suppliers without compromising the integrity of the process. The inspections will include a review of documentation such as ship's log books, which may be photographed by EPA authorised officers but will not be removed from the ship.

Authorised officers inspecting cruise ships and fuel suppliers will be suitably trained and inducted, and will display both their EPA authorisation cards and their maritime security identification cards (MSIC).

The EPA will adopt a strategic approach to identifying ships and fuel suppliers for auditing. This approach will have a risk-based component as well as considering past non-compliances. In line with this approach, the frequency of audits will be reduced over time for ships and fuel suppliers with good compliance history. It is expected that initially, a high proportion of cruise ships subject to the low sulfur fuel requirements berthed in Sydney Harbour will be inspected. This may include repeat inspections of some frequently-visiting ships.

## **1. Compliance with low sulfur fuel use requirements**

Checking compliance with low sulphur fuel requirements will commonly involve reviewing the ship's log book, bunker notes and other documents, as well as fuel and engine system monitoring data (e.g. low sulfur fuel tank levels, engine temperature and fuel viscosity). The inspection will focus on assessing whether low sulfur fuel was and is being used when required and that all documentation and sampling requirements have been met.

Inspections may involve checking that the ship has retained the bunker sample from any refuelling operation while berthed. The EPA may request and examine historic low sulfur fuel bunker notes and bunker samples. EPA Authorised Officers may also issue notices to provide information and/or records related to the low sulfur fuel use requirements.

The EPA may additionally take low sulfur fuel samples for laboratory testing. An official receipt and chain of custody documentation will be provided by the EPA for any samples removed from the ship.

## **2. Exceptions for use of LNG, CNG and LPG**

For cruise ships that have notified the EPA under clause 78H of the Clean Air Regulation that they use liquefied natural gas (LNG), compressed natural gas (CNG) and liquid petroleum gas (LPG) as their primary fuel, the EPA will focus on verifying the fuel used in the ship. The EPA will conduct these checks on the first arrival of the ship in Sydney Harbour and may also conduct intermittent follow-up checks.

## **3. Approved alternate means for emissions reduction**

Cruise ships that have received approval from the EPA under clause 78M of the Clean Air Regulation to use an alternate means of achieving the required emissions reduction (e.g. through the use of exhaust gas cleaning technology) are likely to be inspected when they first berth at Sydney Harbour. They will also be inspected during a proportion of subsequent visits. These inspections will involve assessing compliance with any conditions of the approval, such as operating and maintaining the equipment in a proper and efficient manner.

If the EPA identifies any non-compliances with any conditions of any approval, it will consider revoking the approval. Prior to revoking any approval, the EPA will issue a show cause letter to the master and owner, inviting them to provide a justification for the approval not to be revoked. The EPA will consider any response to the show cause letter prior to making a decision on whether to revoke the approval. If an approval is revoked, the ship will be subject to the low sulfur fuel use requirements of the Clean Air Regulation.

## 4. False or misleading information in applications for approvals or exemptions

If the EPA identifies that any application for an approval or exemption contains materially false or misleading information, it will consider revoking the approval or exemption. A show cause letter will be issued, as above, before the EPA makes its decision to revoke the approval or exemption. The EPA will also consider enforcement action for the offence of providing false or misleading information.

## 5. Fuel supplier obligations

Inspection of a proportion of fuel supply (bunkering) operations will be carried out by the EPA, to ensure the requirements of the Regulation are met. Subject to a satisfactory initial compliance history, the proportion of fuel supplying operations that are audited will be reduced over time.

## 6. Notifications

Under the Clean Air Regulation (clauses 78D and 78F), the master or owner of cruise ships unable to meet applicable fuel requirements are required to notify the EPA and provide reasons for the inability to comply. The EPA will review all notifications and reasons provided to assess their validity. If the EPA considers that these reasons are justifiable in terms of the defences provided under Division 2 of Part 6A of the Clean Air Regulation, the EPA is unlikely to take compliance action. However, compliance action will be considered if the reason stated in the notification is not justified or contains false or misleading information.

## The EPA's response to offences

Response to any alleged offences relating to the low sulfur fuel requirements for cruise ships will be guided by the EPA's Compliance Policy and Prosecution Guidelines.

These documents will guide the EPA's response to:

- any non-compliances with the requirements under Part 6A of the Clean Air Regulation, including providing materially false or misleading information
- any related offences under the *Protection of the Environment Operations Act 1997*, including obstructing an authorised officer or failing to comply with a lawful request from an authorised officer to provide information or records.

The EPA has a range of regulatory responses to non-compliances. These responses may include warning letters, Official Cautions, Penalty Notices issued to the master or owner, or prosecution of the master, owner or both.

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