
EXPLANATORY NOTES TO THE BUNKER LICENSE FOR BUNKER FUEL TRANSPORTER



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GENERAL

The port of Rotterdam is one of the largest bunkering ports in the world. The favourable location, the infrastructure (high refining capacity) and the inclusion of Rotterdam in the sailing schedules of sea-going vessels as the first or last port of call contribute to vessels being bunkered¹ here.

In the ARA area (Antwerp-Rotterdam-Amsterdam) a huge amount and number of bunker deliveries will take place (in Rotterdam in 2019: 8.9 million m³ and approx 20,000 bunkering operations). This makes the port of Rotterdam the second largest bunker port in the world after the port of Singapore.

The bunkering of sea-going vessels in the port is subject to relatively few operational rules. For a bunker vessel to bunker a sea-going vessel, it only needs to notify the Harbour Master thereof.

The desire to introduce a bunker license is not new. In 1994, the municipality of Rotterdam (at that time via the Port of Rotterdam Authority) investigated the possibilities of making a bunker license compulsory². As a result of this investigation, the aforementioned bunkering notification was made compulsory at the time; however, the bunker license was not introduced for various reasons. At that time, the idea was that the national government or international bodies would come up with a license, or that the sector itself would set to work on regulation.

The reason for making a bunker license compulsory now is to realize a more transparent bunkering market. For years there has been a sense of ambiguity in and about the bunker market, both in the media and in politics, and there are serious concerns about discrepancies in bunker quantity and quality. An increasing number of disputes are being observed and complaints, in particular about the bunkers delivered, are also increasing. The bunkering license transporter aims to make a positive contribution to reduce these alleged discrepancies. The bunkering license transporter promotes the transparency and traceability of the bunkering process and helps to better safeguard the quantity of bunkers that are

delivered in Rotterdam. The bunker license transporter is therefore of added value for the environment, society and the reputation of the port of Rotterdam as a bunkering port.

The Port of Rotterdam is not the only port in the world facing these alleged ambiguities. Other ports are facing or have faced the same problems. In Singapore and Gibraltar, this ambiguity in the bunkering market has led to the successful introduction of a license system. The number of cases involving quantities and differences in quality has been considerably reduced. The Dutch sea ports do not currently have such a system (or a variety thereof) of bunker permits or licenses.

The desire to introduce a bunker license is widely supported. The bunkering sector (represented within the sector-wide bunker consultation), bunker transporter, bunker fuel transporter and manufacturers, (international) representation (NOVE and IBIA³) such as shipping companies and agencies, have been calling for a license system for years in order to make the bunkering sector more transparent and easier to monitor.

Local politicians and the central government are also watching this development with interest. This is partly due to the national and international investigations (Reports 'Dirty Oil' (Ministry of Security and Justice 2013) and 'Dirty Diesel' Public Eye 2016) in which, in response to questions by the Dutch House of Representatives, the Minister promised the House that the municipality of Rotterdam would submit a proposal. Finally, both the IMO and the European Commission are closely following the developments regarding the Rotterdam bunker license.

In view of the above, it has been decided to introduce the bunker license for bunker fuel transporter with effect from 1 February 2021 with the aim of ensuring that the bunkering of sea-going vessels takes place safely, correctly and in an environmentally responsible manner. The bunker license for bunker fuel transporter will be issued until 1 February 2023. Prior to this date, the bunker license for bunker fuel transporter shall be evaluated and the extent to which the license and the requirements need to

¹ Bunkering is standard language for sea-going vessels receiving fuel

² <https://www.nrc.nl/nieuws/1994/12/13/rotterdam-schept-orde-in-chaotische-wereld-van-bunkerolie-7249305-a335869>

³ NOVE: Dutch Organisation for the Energy Industry. IBIA: International Bunker Industry Association

be adapted in the light of experience gained shall be considered.

LEGAL FRAMEWORK

The Port Bye-Laws entered into force on 1 January 2020. The Port Bye-Laws were drawn up in close consultation with various municipalities and a virtually identical set of Port Bye-Laws has applied since 1 January 2020 in the municipalities of Rotterdam, Vlaardingen, Schiedam Dordrecht, Zwiindrecht, Papendrecht, Amsterdam, Velsen, Beverwijk and Zaanstad. For the sake of convenience, this document only refers Rotterdam or the port of Rotterdam, but this bunker license will also apply in other ports around Rotterdam, namely in the municipalities of Schiedam, Vlaardingen, Dordrecht, Zwiindrecht and Papendrecht.

Article 8.1 of the Port Bye-Laws⁴ states that fuels or energy sources designated by the Municipal Executive may only be bunkered or debunkered with a license issued by the Municipal Executive. Article 1.1 defines what is meant by bunkering and debunkering:

- *bunkering*: the supply of solid, liquid or gaseous fuels or any other source of energy used for propulsion of ships or for the general or specific energy supply on board ships;
- *debunkering*: returning solid, liquid or gaseous fuels or any other source of energy used for the propulsion of ships and for the general and specific energy supply on board ships;

The Designation Decree on fuels and energy sources which may only be bunkered with a license (see <https://www.portofrotterdam.com/nl/scheepvaart/wet-en-regelgeving>) contains an exhaustive list of fuels and energy sources that may which may not be bunkered or debunkered from a vessel to another vessel or from a vehicle to another vessel without a license from the Municipal Executive. As of 1 February 2021, fuel oil, diesel and biodiesel will also be subject to a bunker license.

Article 8.2 of the Port Bye-Laws sets out the minimum requirements that may be imposed on the bunker license. For the municipalities of Rotterdam, Vlaardingen and Dordrecht, these requirements derive from the European Seaports Regulation⁵, while for the other municipalities, the basis can be found in the Municipalities Act (see below). Since 24 March 2019, the Seaports Regulation

provides, among other things, a legal framework for access to the market for port services mentioned by name in the Seaports Regulation. The Seaports Regulation applies to all seaports forming part of the trans-European transport network. This means that this bunker license is required for bunkering in the ports of Rotterdam, Dordrecht and Vlaardingen.

Articles 4(1) and (2) of the Seaports Regulation sets out the minimum requirements that may be imposed on the port services referred to in the Seaports Regulation, including bunkering. These articles read:

1. *The Port Manager or the competent authority may require that providers of port services, including subcontractors, comply with minimum requirements for the provision of the port service in question.*
2. *The minimum requirements referred to in paragraph 1 may only relate to the following:*
 - a) *the professional qualifications of the port service provider, its staff or the natural persons who effectively and continuously manage the port service provider's activities;*
 - b) *the financial standing of the port service provider;*
 - c) *the equipment necessary to provide the port service in question under normal and safe conditions and the ability to maintain this equipment at the required level;*
 - d) *the availability of the port service concerned to all users, at all berths and without interruptions, day and night, all year round;*
 - e) *compliance with requirements relating to maritime safety or the safety and security of the port or access to the port, its installations, equipment and employees and other persons;*
 - f) *compliance with local, national, Union and international environmental requirements;*
 - g) *compliance with obligations relating to social and labour legislation applicable in the Member State of the port concerned, including the conditions laid down in applicable collective agreements, manning requirements and requirements relating to*

⁴ Where this document states 'Port Bye-Laws', it refers to the Rotterdam Port Bye-Laws 2020, Vlaardingen Port Bye-Laws 2019, Schiedam Port Bye-Laws 2020, Dordrecht Port Bye-Laws, Papendrecht Port Bye-Laws 2020, and the Municipality of Zwiindrecht Port Bye-Laws.

⁵ Regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports.

hours of work and rest for seafarers, and the applicable rules on labour inspections;

h) the good repute of the port service provider, as determined in accordance with any applicable national law on good repute, taking into consideration any compelling grounds to doubt the reliability of the provider of port services.

These minimum requirements, with the exception of the second paragraph under g, have been incorporated in Article 8.2 (2) of the Port Bye-Laws. Article 4 of the Seaports Regulation specifies the scope of these minimum requirements, which must be transparent, objective, non-discriminatory and relevant to the port service in question. The article-by-article explanation explains in more detail that the requirements laid down in the bunker license comply with these conditions.

The legal basis for the bunker license for bunker fuel transporter in the municipalities of Schiedam, Zwiindrecht and Papendrecht is the general decreed power of the municipal councils by virtue of article 147 of the Municipalities Act. The provisions relating to the bunker license for bunker fuel transporter were subsequently further elaborated in the provisions under or pursuant to the Port Bye-Laws in those municipalities.

BUNKER LICENSE FOR BUNKER FUEL TRANSPORTER

The bunker license for bunker fuel transporter covers the bunkering or debunkering of residual fuels and distillates (fuel oil and diesel) and biodiesel. The fact that the bunkering of these fuels is subject to authorisation is laid down in the Designation Decree on fuels and energy sources which may only be bunkered with a license.

The bunker license for bunker fuel transporter applies to the transport and delivery of residual fuels and distillates (fuel oil and diesel) and biodiesel to sea-going vessels. The supply of other fuels, such as LNG, requires a different bunker license, since different techniques are used and different safety and other requirements apply.

ADMINISTRATIVE BURDEN

Any license entails an administrative burden in comparison to a situation in which an activity

does not require authorisation. The explanation of the requirements and restrictions specifies for each requirement (where applicable) the (administrative) burden on the license holder and states that the requirements are necessary for the purpose of the bunker license for bunker fuel transporter.

CONSULTATION

In preparation of the bunker license for bunker fuel transporter, interviews were held throughout the chain with enforcers, transporter, industry representation, energy transporter, insurance companies, bunker inspectors, shipping companies, ports and bunker fuel transporter.

All stakeholders were interviewed based on a standard questionnaire and the answers given were fed back for verification. Some (mainly foreign) stakeholders completed the questionnaire themselves.

The results of the questions and the answers have been bundled so that a 'common thread' has emerged in the design of the bunker license for bunker fuel transporter. This common thread highlighted the most important issues that all stakeholders wanted to see on a regular basis and in what way.

There was great consensus between the wishes of the stakeholders, but on some points there was disagreement. These include the mandatory use of the Mass Flow Meter, blending of types of fuel and the quality requirements of bunkers (which ISO standard). What all the stakeholders were and are unanimous on is that the introduction of a bunker license for bunker fuel transporter is necessary.

The stakeholders:

- Bureau Veritas/Verifuel: bunkerinspection and checks;
- CMA/CGM: shipping company;
- International Bunker Industry Association: represents bunker parties (transporter and shipping agency);
- Human Environment and Transport Inspectorate: enforcement authority;
- Mediterreanean Shipping Company (MSC): container shipping company;
- Port of Gibraltar: port (already has license system in place);
- Stolt Nielsen: chemicals shipping company;

- Total: fuel producer;
- Trefoil: bunker transporter and shipping agency;
- ONE: container shipping company;
- Maersk: container shipping company;
- North of England P&I Association Ltd: insurance company;
- NOVE (Nederlandse Organisatie Voor de Energiebranche)
- Unibarge: bunker shipping agency;
- Netherlands Petroleum Industry Association: represents bunker transporter and producers;
- Association of Rotterdam Shipbrokers and Agents: represents Rotterdam agencies;
- Verenigde Tankrederij: bunker shipping agency;
- Wilson: shipping company;
- Seaport Police: enforcing authority.

EXPLANATION OF THE REQUIREMENTS AND RESTRICTIONS

1. Terms

This regulation defines a number of terms. Some terms from the Port Bye-Laws have also been repeated in this regulation for the sake of the readability of the license.

2. Licensed activities

The licensed activities concern the supply of residual fuels and distillates (fuel oil and diesel) and biodiesel for the propulsion of sea-going vessels and for the general and specific energy supply on board sea-going vessels.

The legal basis for this can be found in the Port Bye-Laws and the Designation Decree on fuels and energy sources that may only be bunkered with a license

(see <https://www.portofrotterdam.com/nl/scheepvaart/wet-en-regelgeving>).

The license is applicable in the ports of the municipalities of Rotterdam, Schiedam, Vlaardingen, Dordrecht, Zwijndrecht and Papendrecht. The exact scope is laid down in Article 1.2 of the Port Bye-Laws.

(administrative) burden

There are no costs or fees associated with applying for this Bunker License for Bunker Fuel Transporter. In other words, the applicant will not receive an invoice or an order from the Harbour Master to whom the application for the bunker license for bunker fuel transporter must be submitted.

3. Reservation

The requirements attached to the 'bunker license for bunker fuel transporter' may

therefore be amended ex officio by the Harbour Master. It goes without saying that there must be a necessity to do so and that any amendment will need to be justified..

4. Requirements for the license holder

This Article lays down conditions for the license holder. The license holder must have a Certificate of Good Conduct for Legal Entities (VOG/RP). The VOG/RP is a written declaration by which a bunkering company can demonstrate that it has not committed any criminal offence that poses a risk to the work or the task it intends to carry out.

When applying for a VOG RP, Dutch screening authority Justis investigates whether a bunkering company and all the directors of Dutch nationality in important positions within that company have not been in contact with the judicial authorities. If this is the case, Justis will issue the VOG RP. If they find criminal offences have been committed, Justis will check whether they are relevant for the purpose for which the VOG RP has been requested. At the time of the license application, the VOG/RP may not be more than 3 months old. Only Dutch companies can apply for the VOG/RP. If the applicant is a foreign company that has a legal entity in the Netherlands which carries out bunkering activities, it must submit a VOG / RP from the Dutch legal entity with the application. If the foreign company does not have a legal entity in the Netherlands which carries out bunkering activities, it must submit a document comparable to a VOG / RP, issued by a competent authority in the country where the company is located. This document may also be no more than 3 months old at the time of applying for the permit.

In this case, it will be checked whether the company indeed has no legal entity in the Netherlands. If this turns out to be the case, a VOG / RP will still have to be requested from Justis.

If a company does not have legal entity, such as a sole proprietorship or a general partnership, then this company must instead of a VOG / RP submit a Certificate of Conduct for Natural Persons (Verklaring Omtrent Gedrag / NP) with screening profile 'Goods' for all persons included in the Chamber of Commerce with legal capacity.

Upon commencement of the license (the date of entry into force), the VOG/NP for the bunker operator or his/her replacement may not be





older than 3 months. If a bunker operator or his/her replacement joins the authorised company at a later time, a VOG/NP that is not older than 3 months must be submitted.

In order to provide the supervisory authorities with an insight into the activities of the facility, the use of a travel and cargo log is required. The information as prescribed by the ADN, as already used in tanker shipping for the transport of petrol, is recorded in this log.

A reliable bunkering market also requires a transparent quality management system. Such a system makes it easier for the license authority to check that the accounts and working methods of the license holder are in order. The accounts will also be audited by a third party, the classification society. Almost all bunker shipping companies already have a quality management system, usually a proprietary system, which will need to comply with an assessment framework.

To ensure proper sampling, the use of correct sampling bottles and containers is essential.

The license supervisor can check the activities of the license holder via the bunker registration forms, such as the bunker request forms, the checklists and Bunker Delivery Notes. These may be inspected at the location of the license holder.

(administrative) burden

The costs for a VOG RP application are €207 (price level of 2020). These are additional costs that will be incurred compared to the current situation in which no license is required. In view of the background to the introduction of this license, it is desirable to allow companies to apply for a VOG/RP.

The costs for a digital VOG/NP application via Justis are €33.85. This is not expected to lead to any additional costs, as it can be expected of a bunkering company that the reliability of new employees for key positions is checked by applying or having them apply for VOG/NP.

The price for purchasing a cargo log is approximately €250. A cargo log can hold some 150 transactions. A cargo log is of great importance for checking which bunkering operations have taken place and in what way. The cargo log is therefore very important in order to be able to monitor the desired transparency and safety (afterwards). In view of this, an additional cost of approximately €1.70

per bunkering operation is justified.

A quality management system is a prerequisite for the safe and transparent bunkering of fuels. This may be an ISO-9001 or equivalent (proprietary) system. Virtually all license holders have such a quality management system in place. If a quality management system is not in place, one will need to be developed. These costs vary depending on the size of the company, starting at around €1,000 per year for a small company.

Fully lockable and sealable sample bottles complying with ISO 13379 are normally already on board. The cost per sample bottle is negligible. There are virtually no clients of a bunker fuel transporter who accept a non-lockable or non-sealable sample bottle. Currently, compliance with ISO 13379 is rare. Working in compliance with ISO 13379 requires additional knowledge within the companies and on board. It also requires additional sampling tools such as drip rings, fuel drip samplers and more time to be spent by the crews on understanding this properly. The estimated cost of working according to ISO 13379 is approximately €3,000. Having said that, a standard bunker vessel is equipped with these tools and just needs to be cleaned and put into service.

5. Registration and cancellation of the bunker facility

A bunker facility can be used for the bunkering of sea-going vessels, but it can also be used for 'normal' tanker shipping (for instance for the transport of fuels between two terminals). It is therefore important to know when a vessel is used for bunkering operations, since the bunker facility used as a bunker vessel is subject to license requirements. Consequently, the Harbour Master must be informed beforehand that a vessel serving as a bunker facility will actually be used as a bunker facility. This requires the written/digital submission of the following documents, where applicable:

- a copy of the title deed of the bunker facility;
- a copy of the Inspection Certificate;
- a copy of the Certificate of Approval;
- the date from which the bunker facility will be used.

The documents can be submitted by post to:

Port of Rotterdam Authority, Harbour Master's division

Harbour Master Policy and Support Department

stating registration or cancellation request

bunker facility

PO Box 6622

3002 AP Rotterdam

The Netherlands

vergunningenloketDHMR@portofrotterdam.com

(administrative) burden

The requested documents are in the possession of the license holder and making copies of these documents will take very little time. The information can also be sent digitally.

6. Requirements for the bunker facilities

Article 6 sets out the requirements for the bunker facility itself. The sampling equipment required by this regulation must be available and used on board the facility. The equipment is described in ISO standard 13739 in Annex K.

To ensure that the correct amount of fuel is delivered to sea-going vessels, it is important that regulations are laid down. The existing measuring equipment and tanks must therefore be calibrated in order to be able to calculate a correct measurement of the quantity to be supplied and delivered. The validity of the calibration certificates of the different measurement methods is also subject to conditions.

In order to guarantee a proper connection with other piping systems, it is necessary to adhere to common standards and to have the necessary adapter pieces (fittings) on board to create a proper connection.

Monitoring the piping system requires a clear piping plan, so it can easily be checked whether bunkers are going from the correct tank to the sea-going vessel.

Bunker facilities also continue to become larger and larger. To guarantee accessibility of the port basins, a maximum width of 24 metres has been established. This is also the maximum size for the Volkerak locks.

(administrative) burden

To ensure transparent bunkering, the calibration of measuring equipment is of paramount importance. Periodic calibration is therefore essential. Calibrating the current on-board

measuring equipment involves costs. The cost for a certified calibration of the dial gauges is approximately €1,250 and should be performed at least once every 5 years. The cost for a certified calibration of measuring sticks and tape measures is approximately €350 and must be performed at least once every 12 months.

Partly in order to keep the administrative burden low, the regulation allows all documents and certificates to be available on board in electronic form.

7. Documentation on board the bunker facilities

This regulation lays down rules with regard to bunkering. For loading at a terminal, the Certificate of Quality of the bunkers must be available on board, so the captain can ensure they will receive the correct cargo. If several batches are loaded at the same time during loading (blending), the certificate can be arranged at a later stage. In this case, the certificate must be arranged prior to delivery to the client (sea-going vessel).

Pursuant to regulation 7.3, a measurement report consisting of a number of fixed data is drawn up prior to bunkering and immediately after bunkering. The purpose of drawing up these two measurement reports is to calculate the difference and thus determine the quantity delivered.

(administrative) burden

A Certificate of Quality is currently already being used, which means that this provision does not lead to any additional financial administrative burden.

8. Requirements for the bunker operator

A number of responsibilities and administrative tasks are assigned to the bunker operator. Regulation 8.1 requires the bunker operator to enter additional information in the travel and cargo log relating to the bunkers and their delivery.

Regulation 8.2 covers the bunkering process to be followed to ensure safe and transparent bunkering.

(administrative) burden

Filling in the travel and cargo log takes time, about half an hour per bunkering or (at an hourly wage of €60) approximately €30 per bunkering operation. See the explanation above of why this information must be provided.

9. Requirements for sampling

The way in which samples must be taken is a separate requirement, as this is extremely important to ensure the quality of bunkers at the various transfer points: from terminal to facility and from facility to receiver (sea-going vessel). In addition, it is important that the sampling process is properly recorded in the log, to ensure the sampling is traceable in the chain.

(administrative) burden

Virtually all bunker vessels are as standard equipped with a drip sampler according to ISO 13739. If this unexpectedly breaks down or does not work properly and must be replaced, the corresponding costs amount to approximately €3,000.

10. Operational notification and registration

To ensure effective and efficient monitoring, the bunker operator must report a number of details to the Harbour Master prior to starting the bunkering to sea-going vessels. The notification to the Harbour Master takes place via a special application in order to keep the administrative burden to a minimum. With the use of the application, the existing possibility to pass on the data via telephone and VHF will be abolished.

(administrative) burden

The use of the Time2Bunker application keeps the administrative burden for making this notification low.

11. Blending

Regulation 7 stipulates that a Certificate of Quality must be drawn up. The bunkers are delivered to the sea-going vessel on the basis of this certificate. When bunkers are blended during delivery, the composition of the bunkers changes and thus deviates from the details of the Certificate. This regulation stipulates that blending during delivery of the bunkers is not licensed, in accordance with the provisions of the ADN.

12. Bunker surveyor

The deployment of a bunker surveyor takes place on a voluntary basis. The bunker surveyor (surveyor) must follow a course as organised by the Shipping and Transport College (STC). The course increases the quality of the bunker surveyor and improves the quality assurance of the bunker measurements and reports. The deployment of a bunker surveyor is expected to make bunker deliveries safer and more transparent. It is also recommended the bunker operator also follows this course.

(administrative) burden

The cost of the bunker inspector course (2 days) is approximately €800 for the first time. After obtaining the certificate, a one-day course must be followed every two years, which is concluded with an exam. This costs approximately €400.

13. Debunkering

Debunkering is a rare occurrence in the port; however, it is paramount that it takes place under strict conditions to avoid any ambiguity about the substance being handled. Including the debunkering in the bunker license abolishes the voluntary completion of the application form while the license holder is responsible for the correct debunkering procedure including the use of the application form and the debunkering checklist.

The debunkering notification must be sent to the Harbour Coordination Center by email, to hcc@portofrotterdam.com.

14. Disputes and complaints notification desk

One of the objectives of the bunker license for bunker fuel transporter is to make the bunker chain more transparent and easier to monitor. By imposing a possibility to report complaints and disputes, the effect of the license can be measured and supervision and enforcement of the license can partially be information-driven.

The notification can be sent via a complaint form and by email to the following email addresses: dhmr_bunkerklachten@portofrotterdam.com or dhmr_bunkercomplaints@portofrotterdam.com

15. Concluding provisions

This requirement specifies the circumstances in which the license may be amended or revoked.

Supervision and enforcement

The supervisory authorities and special investigating officers of the Harbour Master's Division of the Port of Rotterdam Authority are primarily responsible for supervising and enforcing the bunker license for bunker fuel transporter.

Enforcement may take place either under administrative law (order subject to a penalty) or under criminal law. The method of enforcement will be further elaborated in the Enforcement Arrangement for the Bunker License for Bunker Fuel Transporter.

Evaluation

The effectiveness of the bunker license for bunker fuel transporter will first be evaluated after 1 year. The results of the evaluation will be available in Q1 of 2022. Depending on the results of this evaluation, it will be further studied whether the use of a Mass Flow Meter should be made compulsory in the bunker license. The most reliable way to measure how much fuel is bunkered is a measurement according to the Coriolis principle with a Mass Flow Meter. Since the meter is pricey: between EUR 50,000 and EUR 250,000 (depending on the capacity), the effects of the bunker license for bunker fuel transporter will first be evaluated.



