

BUNKER

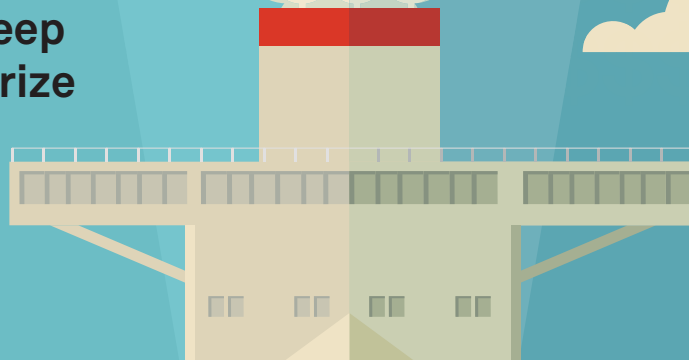
SUMMER 2017 **BULLETIN**

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Digital bunker delivery notes – it's time for the bunker industry to tidy up its paperwork, says J Stephen Simms

The bunkering industry has embraced technological change. It's rare to meet people you're trading with, and most transactions – from quote to invoice – rely on apps, emails or texts. It's therefore strange that the industry seems so resistant to the modernization of paper bunker delivery notes (BDNs) or receipts (BDRs). From both a legal and technological standpoint BDNs/BDRs are one part of a bunkering transaction that would both suit and benefit from digitization, perhaps even more so that other parts of the transaction process.

Even the multi-layered forms - which no matter how hard you press never seem to result in a legible bottom copy – are completely out of date for an industry that has embraced modernization. These forms get wet or stained, and yet the BDN/BNR is supposed to be kept on board ready for inspection for a three-year period. And then there's the questions: "Has anyone got a pen?"

Most advanced legal systems now support the digitization of BDNs/BDRs. Digitization is seen as part of the solution for potential cyber fraud in transaction, and crucial to monitoring compliance and enforcement of the IMO's 2020 sulfur cap. The leading digital solution, Vortex Development Group's Digital Bunker, includes E-BDN/E-BDR which are legally compliant and enforceable in bunker disputes. A common legal challenge in bunker quality or quantity disputes is proving the authenticity and accuracy of the figures on the BDN/BDR, and the secure nature of a digital system reduces such challenges.

Digital Bunker also meets the MARPOL Regulations' requirements for maintaining BDRs/BDNs, without storage space for paper copies. Wi-Fi also promotes the benefits of digitization, and the various copies of the BND/BDR can be effortlessly emailed to the vessel, supplier and all other parties involved in a transaction – the results are both legible and secure. Systems like Digital Bunker can also link to a mass flow meter, to minimize human error in recording data.

The IMO has been considering amending BDN/BDR requirements since mid-2016, to ensure accurate enforcement of the 2020 sulfur cap. While the proposals have yet to be agreed, it's likely that forms will be used to report exactly what fuel – including quantity and content – is provided to a vessel. Digitization could come into its own here, because it would reduce the need to manually

transfer the data from the BDN/BDR to the IMO. Digitized BDN/BDR information could also be made available to port- and/or flag-state authorities, to confirm that vessels taking on higher-than-0.5% fuel have operational scrubbers capable of processing the fuel. For compliance purposes, vessel owners might similarly require their charterers to give them access to digitized BDN/BDR information, to reassure themselves that their vessels will not be detained or arrested.

When the IMO's likely BDN/BDR changes become effective, suppliers must have new forms ready, and they face a choice between updating thousands of paper copies or utilizing a digital system that would make the changes immediately. A system such as Digital Bunker would also allow for the quick implementation of any new compliance on a country by country basis. There is also space on a digital form for guidance on and an explanation of the actual applicable sulfur limits, which is therefore likely to increase compliance.

If a vessel is exempt from the sulfur cap, a digital system would also allow for photographs of the exemption certificate to be linked to the BDN/BDR. From a legal standpoint, a digital system would significantly increase the chain of evidence, and therefore may be considered more reliable and compliant than paper-based systems.

National governments, including the US, UK, Singapore and most European countries, are actively encouraging electronic recordkeeping for reasons of efficiency, security, and waste reduction, while requiring safeguards that signatures are authentic, unique and cannot be altered without consent of the parties. There is also ample and growing case law across these jurisdictions to support the legal effectiveness of digitized BDN/BDR systems.

The bunker industry should take the opportunity to embrace this final step toward modernization. With the IMO's sulfur cap on the horizon, BDNs/BDRs will definitely need an update, and a digital system could also help tackle the challenge of cybersecurity, result in more efficient data recording, and help the industry achieve significant cost saving and cash flow improvements. The evidence suggests it's time to trash paper BDNs/BDRs.

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