

FuelEU to pose significant new challenges

There are key differences that owners, managers and charterers need to be aware of between EU Emissions Trading System (ETS), in place since January, and FuelEU Maritime, due to enter force in about eight weeks.

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Albrecht Grell, Managing Director of OceanScoreCredit: OceanScore

Albrecht Grell, Managing Director of OceanScore, a Hamburg-based emissions consultancy, outlined some of these during a webinar earlier this week. One of the most important differences is the way in which greenhouse gas (GHG) emissions are measured under the two regulations.

The ETS framework measures emissions on a tank-to-wake basis whereas FuelEU considers them in a well-to-wake framework. This means that some fuels, such as LNG for example, fare much more favourably in a FuelEU context because their production is significantly less carbon-intensive.

Another key difference, and one that is likely to boost the coffers of many a maritime law firm, arises over who is responsible for paying penalties for GHG emissions. In the ETS, it is the vessel owner, manager, or bareboat charterer who has assumed responsibility for the operation of the ship.

However, in FuelEU, it is the Document of Compliance holder, in other words the International Safety Management Code (ISM) company. This is unlikely to be an entity who is actively engaged in ship operation. The companies responsible for compliance, therefore, could well be different between the two regulations.

Grell outlined the issue. "It is tricky because as we all know the DOC holder is the last one to decide on the bunkers being burned, but he still has to bear the burden of this regulation. DOC holders should really prepare for this regulation to make sure they are well covered from the respective risks ... Typically there is no commercial agreement between the DOC holder and the charterer. So, there is

a whole new area of uncertainty here about how to get compensated for potential penalties from the charterer.”

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The other key difference is that, unlike ETS, the FuelEU regulation has the potential to generate new revenue streams. Whereas owners will simply pay penalties under ETS on the basis of their ships’ emissions profiles, phased in over three years on a 40-70-100% scale, FuelEU emissions will start to be actively managed from the beginning of April 2026 and could generate new revenue streams.

FuelEU emissions will be measured against thresholds which remain in place for five years and tighten steadily until mid-century. The first ‘threshold’ number, in place until 2030, will be 89.3g of CO₂ equivalent per megajoule of energy.

The use of fuels that fall above or below this threshold will generate compliance deficits or surpluses. These will be computed based on the grams of [GHG emissions](#) above or below the target, converted into very low sulphur fuel oil equivalent (VLSFOe).

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Every tonne of VLSFOe above or below the target will generate a deficit or a surplus. Deficits will incur a penalty of EUR 2,400 per tonne of VLSFOe. Surpluses can be borrowed, banked or pooled.

So far, biofuels produced from sustainable feedstock, such as biodiesel from animal fat and waste cooking oil generate the largest surpluses, but renewable fuels of non-biological origin (RFNBOs), e-fuels, are likely to become widely adopted as emission regulations tighten over the next 25 years.