

RED DIESEL & BELGIUM

Prof Irving Benjamin - Commodore Royal Cinque Ports Yacht Club [Dover] received this important email from Chris and Monica Steward.

All sailing to or near Belgium should read carefully.

We promised to send you a note about our experiences this summer re red diesel and the Belgians in case any of the members were thinking of sailing on from the DK rally this coming weekend.

On our way home from Holland earlier this month, we were lucky, we went into Blankenberg and had no problems but Savoir Vivre went into Ostende where Belgian customs came down the pontoon obviously pointing out the British boats. They boarded Savoir - the other British owners were not on board their boats. They looked at all papers, asked about red diesel, were not interested in receipts and advised Barry that he could be fined 500 euros for having red diesel in the tanks, however, he was lucky, Robert the somewhat unconventional North Sea marina harbourmaster, came down the pontoon, obviously glaring/swearing at the customs who did not actually levy the fine.

In Dunkirk we met the owners of a Konsort Duo who were less fortunate: they were boarded at sea off Ostende on their way up to Holland in May. They had not visited any Belgian port and were on passage from Dunkirk to Vlissingen. The customs people came out of Ostende on a fast rib, were very aggressive, stayed on board for a good hour, took samples of their diesel and although they had appropriate receipts and had the red diesel only in the main tank, they were fined on the spot 750 euros. Had they not had the cash, they would have been escorted into port and taken to a bank to get it. Had they refused to pay, the fine would have been several thousand. They have taken it up with their MEP, also the RYA and CA but it seems that the only way to stay safe at the moment is to stay 12 miles off and not enter Belgian waters – not exactly a practical solution unless you like long overnight passages and sailing up shipping lanes

Interestingly, arriving in Holland we were boarded as was Savoir Vivre by Dutch customs as we entered the canal at Vlissingen. They too examined all papers but were charming and happy that we were within the law re diesel. Interestingly they wanted a photocopy of our receipt from George Hammond PLC of Dover who supply fuel as they said Dutch vessels return with red in their tanks as they cannot get other so they wanted an example of a receipt to check what it would look like re the tax paid etc. They said they could not understand the intolerant attitude of the Belgians who are even fining Dutch and Belgian boats for using red diesel bought in the UK!

We know that the Belgian “Government” [Have they still not got one?] is at odds with the British Government because they feel we should conform to the EU ruling but the matter should be settled at Government level without persecuting innocent sailors. It will be very sad if Belgian ports are out of bounds, also if getting to the lovely Zeeland sailing area becomes too difficult! Although the RYA still maintains that we sailors are within the law, the fact of the matter is that people are being fined!

Hope you have a good weekend in Dunkirk, we are off to Greece! Monica

THE RYA published the following on 17 August

The RYA, together with the BMF [British Marine Federation], has written to key treasury ministers and has met with HMRC [Her Majesty's Revenue and Customs] in order to encourage Government to vigorously defend the UK's position on the use of red diesel. This follows the EU's announcement in July 2011 that it intends to open infringement proceedings against the UK over its continued use of red diesel for recreational craft.

The EU believes that the UK's continued use of marked "red" fuel for propulsion undermines the common system of fiscal marking, despite the fact that the full rate of duty has been paid on that fuel. However, specialist advice obtained by the RYA indicates that the UK's system does not contravene the EU marking directive, and we understand that the HMRC has been similarly advised. Diesel for use in recreational craft is also marked red in many other countries outside the EU including the USA and Norway. So any boat visiting the EU having taken on fuel in any of these countries would also lawfully have red diesel in their fuel tanks. A number of UK boats and non-EU boats have been fined by during 2011 by customs officials in different European countries for having red diesel in their tanks, despite providing proof of purchase and duty paid.

The RYA continues to work with the BMF, the Inland Waterways Association and HMRC on this issue.

The RYA continues its challenge of the Belgian authorities' fining of a number of UK boats. Irrespective of whether the Belgian authorities believe that the continued availability of red diesel in the UK infringes EU law it is for the Commission alone to enforce any alleged failure of a Member State[s] to fully implement obligations arising under EU Directives. The Belgian authorities should not therefore penalise individual UK boaters for what they might consider to be a failing on the part of the UK Government, particularly individual boaters who are simply passing through Belgian waters without calling at a Belgian port.

The RYA believes that the Belgian authorities are confusing supply with consumption. While it may be unlawful for red diesel to be supplied to recreational craft in Belgium it should not be unlawful for visiting craft to use red diesel in Belgium.

I have never, in 11 years been stopped in my motor boat and this year I have been through / by Belgium on 4 occasions. It is a problem for some, enough to worry us and question whether we should visit Belgium or not ?

Perhaps an answer might be we pay the fine [no option] and claim it back from the United Kingdom Government or Her Majesty's Customs and Excise ?

I record my engine hours, distance travelled and have every receipt for fuel supplied from when I took delivery of my boat.

Clifford
Joint Secretary - Kent Section
01795 844997
kent@cruising.org.uk