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**News from the USA
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New Washington State Environmental Regulations

This past September, Washington State established two new important environmental regulations regarding pollution prevention in Washington State waters. They are WAC 173-184 Vessel Oil Transfer Advance Notice and Containment Requirements, and WAC 173-180 Facility Oil Handling Standards. These regulations came into effect on October 26, 2006.

Washington State Regulation WAC 173-184 and WAC 173-180 apply to vessels making deliveries (i.e.: bunker barges) and facilities conducting oil transfer operations of jet fuels, diesels, heating oils and any other oils that are recoverable if spilled into the water. The supplying vessel (or designee) or facility must now provide advance notice of the pending oil transfer and they must provide a flotation boom around the vessel prior to transfer, if it is safe to do so. This regulation does not apply to gasoline or other volatile products with similar characteristics.

Therefore, if you have a vessel receiving bunkers or bulk lubes, it will be the responsibility of the supplier to pay for and boom the vessel. In any case, the cost of the boom deployment and related costs could possibly be relayed to the receiving vessel.

Regulation WAC 173-180 also requires vessels receiving oil and bunkers via shore facilities or shore side trucks to establish a Pre-Load Plan. The Plan must establish the type of oil, the location and capacities of the tanks, monitoring instructions, and valve alignments during the transfer of oil(s). In addition, the vessel's crew should also be complying with the preexisting Federal, State, and company bunkering and oil transfer requirements.

For vessels making cargo deliveries of oil products to Washington, it would be in the best interest of the vessel operators or charterers to determine who will be providing the containment boom and associated spill prevention equipment.

C-TPAT Security Link Portal

On June 1, 2006, the Customs Trade Partnership Against Terrorism (C-TPAT) "Security Link Portal" became operational. The Portal may be accessed from the U.S. Customs and Border Protection (CBP) website.

The C-TPAT Security Link is mandatory for all eligible participants. All C-TPAT members, including those who have been previously validated, were required to upload an updated security profile to the Portal by October 1, 2006. Failure to comply with the October 1st, 2006 deadline may result in the suspension of C-TPAT benefits. The Portal allows for enhanced and improved processing and communication for all C-TPAT participants and certified C-TPAT members. The C-TPAT Security Link Portal is mandatory for all eligible participants and brings greater consistency and detail to the security information provided to

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the U.S. Customs and Border Protection (CBP) as part of the C-TPAT program.

Due to some initial programming issues when the Portal was first implemented, some members had difficulty accessing the portal. CBP has now resolved these access and programming issues.

ENOAD Update Part I

On July 28, 2006, the U.S. Coast Guard issued G-PCV Policy Letter 06-05 to provide clarification of their definition of "port or place of destination" to be reported on vessels' eNOAD. 33 CFR 160.204 currently defines "port or place of destination" as "any port or place in which a vessel is bound to anchor or moor. The Policy Letter provides the following clarification:

- Vessels arriving at a port or place when operating solely between ports within a single Captain of the Port (COTP) zone are exempt from submitting a NOA. For example, if a vessel arrives at the Port of Vancouver, WA then shifts to a berth in the Port of Portland, OR, where both are on the Columbia River and under the jurisdiction of Portland COTP Zone, a separate NOA for Portland is not normally require.
- The exception to the above exemption applies to vessels carrying Certain Dangerous Cargoes (CDCs). Vessels carrying CDCs are not exempt, and must submit a NOA for any port or place within the United States, including movements within a COTP zone.

Unfortunately, various interpretations of the definition of "port or place" exist within the USCG. As a result, some COTP zones have required vessels carrying CDCs to submit a separate NOA every time the vessel changes berth, while other COTP zones have only required a separate NOA when a vessel departs one port and enters another port within the same COTP zone. In an effort to avoid confusion, the Policy Letter clarifies the requirements as follows:

- A vessel submitting a NOA when moving within ports or places of a COTP zone (i.e. a vessel carrying CDCs) should only do so if

the vessel is actually moving from one port to another port. Moving from one dock to another dock, one berth to another berth, or one anchorage to another anchorage within one port is not considered a transit from a "port or place" to a different "port or place," therefore no NOA is required

Further confusion has been caused by the fact that some COTP zones require the NOA to list the time or arrival at the pilot station, while others require the NOA to list the time of arrival at berth or anchorage. The Policy Letter clarifies this requirement as follows:

- The regulation specifies that a port or place of destination is where a vessel is bound to anchor or moor. COTPs should not apply this definition to a sea buoy or pilot station. Requiring arriving vessels to submit the NOA based on arrival at a sea buoy or pilot station is not consistent with the CFR. All NOAs to U.S. ports or places should address where the vessel is bound to anchor or moor.

Please contact us if you have any questions regarding USCG eNOAD policies or Policy Letter 06-05.

ENOA Update Part II

33 CFR 160.206 requires that each Electronic Notice of Arrival (eNOA) include a name and telephone number of a 24-hour point of contact. As a separate eNOA is required for each U.S. port, we recommend that each NOA list the vessel's agent in each port as the 24-hour point of contact. Several vessels have listed Compliance Systems as this 24-hour point of contact. Although we serve as the Qualified Individual (QI) for many vessels, the vessel's agent is better able to answer most port specific questions asked by the local USCG offices regarding such matters as crew changes, hurricane readiness, and berthing details. In rare cases where a port agent has not been nominated by the time the 96-hour NOA is required to be submitted, vessels for which we serve as QI are certainly welcome to list us as the 24-hour point of contact, until a port agent has been named. At that time the eNOA should be amended. In addition, when CSI is listed as



the 24-hour contact, the vessel should let us know, so we can be prepared to answer any questions should they arise.

Massachusetts Law Struck Down

The U.S. District Court in Boston, recently struck down as unconstitutional the Massachusetts Law establishing rules for vessels navigating in state waters. The law included requirements for vessels to be accompanied by state-licensed pilots and tug escorts and for alcohol testing by vessel owners. It also established mandatory route requirements and put restrictions on certain vessel designs, and required vessels transporting oil to provide a certificate of financial assurance to the state. According to the Judges ruling, "The challenged provisions of the Oil Spill Prevention Act are preempted, invalid and unconstitutional under the Supremacy Clause of the U.S. Constitution.

Amended Limits of Liability

The limits of liability for oil removal costs and damages that result from discharges or substantial threats of discharge of oil from vessels, under OPA 90 (33 U.S.C. 2704), were amended by the enactment of the Delaware River Protection Act of 2006, title VI of the Coast Guard and Maritime Transportation Act of 2006 (Public Law # 109-241), as follows:

- The amended limits for any tank vessel are effective for an oil discharge or substantial threat of discharge that occurs on or after October 9, 2006.
- The amended limits for any other vessel are effective for an oil discharge or substantial threat of discharge that occurs on or after July 11, 2006.

The existing "Financial Responsibility for Water Pollution (Vessels)" regulations at 33 CFR Part 138 will remain in effect until amended, as explained the Federal Register (August 18, 2006). Information on the promulgation status for revised regulations will be provided on the following website:
<http://www.uscg.mil/hq/npfc/COFRs/index.htm>

The following table summarizes the original and amended limits.

If the vessel is a . . .	The original limit of liability limit was the greater of . . .	And the amended limits of liability are the greater of . . .
Tank vessel greater than 3,000 gross tons with a single hull, double sides only, or double bottom only	\$1,200 per gross ton or \$10,000,000	\$3,000 per gross ton or \$22,000,000.
Tank vessel less than or equal to 3,000 gross tons with a single hull, double sides only, or double bottom only	\$1,200 per gross ton or \$2,000,000	\$3,000 per gross ton or \$6,000,000.
Tank vessel greater than 3,000 gross tons with a double hull	\$1,200 per gross ton or \$10,000,000	\$1,900 per gross ton or \$16,000,000.
Tank vessel less than or equal to 3,000 gross tons with a double hull	\$1,200 per gross ton or \$2,000,000	\$1,900 per gross ton or \$4,000,000.
Any vessel other than a tank vessel	\$600 per gross ton or \$500,000	\$950 per gross ton or \$800,000.

California Air Emissions

The Port of Los Angeles and the Port of Long Beach have developed a "Clean Air Action Plan" that will require ships, trucks, trains and cargo handlers to reduce diesel emissions, and sulfur and nitrogen compounds by 50% in five years. Ocean-going ships will be required to reduce speeds and use low-sulfur fuels within 20 nautical miles of Point Fermin. The zone will eventually be extended to 40 miles. Cold ironing (the use of shore side electricity instead of shipboard diesel engines), will be required at container, cruise-ship and crude terminals. The measures are expected to go into effect this Fall, after a public comment period. (source: Professional Mariner October/November 2006).

Additionally, a recent regulation approved by the California Air Resources Board (ARB) will require ships visiting California ports to reduce the air emissions from their auxiliary diesel



engines through the use of cleaner fuels or equivalent emission controls. Effective January 7, 2007, vessels must meet an emissions limit based upon the use of diesel fuels at or below 0.5% and effective January 1, 2010 diesel fuels at or below 0.1%.

Vessels can comply with the emission limits through alternative means such as shore side electrical power or exhaust emission controls. The regulation may also be complied with by paying a "non-compliance fee", under the following circumstances: (1) unplanned redirection to a California port; (2) inability to purchase a complying fuel; (3) inadvertent purchase of a defective fuel; or (4) inability to schedule vessel modifications in time for compliance. The "non-compliance fees" range from \$13,000 to \$162,000, depending upon type of engine and number of ports visited.

Reporting Hazardous Conditions

Recently, we have had a number of questions regarding the time frame for reporting hazardous conditions to the U.S. Coast Guard. 33 CFR 160.204 defines a hazardous condition as "any condition that may adversely affect the safety of any vessel, bridge, structure, or shore States. It may, but need not, involve collision, allision, fire, explosion, grounding, leaking, damage, injury or illness of a person aboard, or manning-shortage."

33 CFR 160.215 states "Whenever there is a hazardous condition either aboard a vessel or caused by a vessel or its operation, the owner, agent, master, operator, or person in charge shall **immediately** notify the nearest Coast Guard Marine Safety Office or Group Office."

The term "immediately" is difficult to define, as it may be interpreted differently from one USCG Captain of the Port Zone to the next. One COTP

recently interpreted "immediately" as "within 15 minutes," however the USCG-wide definition of "immediately" remains vague. The hazardous condition in this particular case was the vessel resting on the bottom during cargo transfer.

Once verbal notification is made, written documentation can be prepared and submitted after the hazardous condition has been stabilized.

Failure report a hazardous condition or late reporting of a hazardous condition can result in delays, fines and other penalties to the vessel. In order to avoid penalties, we recommend that if a hazardous condition occurs, the vessel's Master report the condition to the nearest USCG Captain of The Port by telephone or VHF radio **as soon as possible**. While we understand that it may not be practical in some instances to report within 15 minutes of discovery, we recommend that this timeframe be used as a standard. Any questions related to classifying a particular condition as a "hazardous condition" should be directed to CSI as soon as possible, so we may provide you with our recommendation.



News From the Coast Guard

Port Security Bill Gets Senate Approval

The U.S. Senate has unanimously approved a port-security bill that would require, among other things, installation of radiation monitors at more than twenty domestic ports. The bill also authorized a new program at three foreign ports where all containers headed to the United States would be scanned. A plan to inspect every inbound cargo container for nuclear weapons was rejected.



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