



# COMPLIANCE SYSTEMS, INC.

26 East Bryan Street • Savannah, GA 31401 USA • Tel: (912) 233-8181 • Fax: (912) 231-2938  
www.compliancesystemsinc.com • Telex: 145025 • E-mail address: [csi@compliancesystemsinc.com](mailto:csi@compliancesystemsinc.com)

**News from the USA  
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## ***MARPOL Annex II Revisions***

The Coast Guard has recently issued Navigation and Inspection Circular No. 03-06, providing guidance regarding the implementation of the 2004 revisions to Annex II of MARPOL. These revisions significantly changed carriage requirements for noxious liquid substances (NLS) in bulk. The reason for these changes was to make MARPOL Annex II simpler to use and take into account new knowledge about the effects of some products on the marine environment. The revised requirements became effective on January 1, 2007.

The revisions reclassify NLS cargoes into a new "3 plus 1" tier system. The new classification system consists of four categories, namely: X, Y, Z, and Other Substances (OS). The fourth category, OS, contains products, which do not pose an environmental risk and therefore are considered to fall outside of categories X, Y, and Z. The reclassification of cargoes has also affected the "Ship Type" requirements for carriage.

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Foreign flag vessels calling U.S. waters must also comply with existing U.S. laws, which may be more stringent than required by the revised Annex II. For example, existing U.S. statutes and regulations require vessels transporting oils, including the OPA 90 materials, oil-like substances carried as an oil, vegetable oils, or animal fats in bulk, to use double-hulled tankers that meet stricter design and construction standards, than do the minimum standards contained in revised Annex II.

Vessels carrying category X, Y, and Z products in Chapter 17 of the IBC Code must have a Certificate of Fitness and those carrying category Z products in Chapter 18 of the IBC Code an NLS Certificate. In addition, foreign flag vessels authorized for the carriage of NLSs will also be required to have on board a valid Certificate of Compliance endorsed to carry the cargoes listed on the appropriate IMO Certificate. Vessels are also required to have a Procedures and Arrangements (P&A) Manual onboard approved by their flag administration, and a Cargo Record Book.

Enclosure (1) to NVIC 03-06 contains guidance for foreign flag vessels calling U.S. ports. A copy of the NVIC and its enclosures may be obtained by visiting the U.S. Coast Guard website at: <http://www.uscg.mil/hq/g-m/nvic/>.

## ***INTERTANKO Waste Reception Initiative***

INTERTANKO, in coordination with the U.S. Coast Guard (USCG), has developed a form for reporting problems encountered with port reception facilities (or inadequate port reception facilities) in the United States. A copy of the form may be obtained from the INTERTANKO website.



The USCG strongly recommends that an inadequate port reception facility in the U.S. should be reported immediately to the local Captain of the Port (COTP) as recommended in 33 CFR 158.167. If that is not possible, or preferred, the INTERTANKO developed form may be used and submitted to INTERTANKO North America office at (fax) +1 703 841-0389. Upon receipt of these reports, the Secretariat will submit them to USCG Headquarters for their further investigation.

In developing this format, INTERTANKO has made an effort to maintain a balance between retaining anonymity for the tanker operator and providing the USCG with sufficient information to conduct a further investigation.

During INTERTANKO's last North American Panel meeting in October 2006, the USCG informed the Panel of the measures it is taking to ensure that there are adequate reception facilities in the U.S. The Coast Guard had previously received information from INTERTANKO and others indicating problems with the availability of reception facilities in U.S. ports. Such problems included facilities being unwilling to take wastes, restrictions on when and where they would take wastes, and an unwillingness to report such incidents for fear of jeopardizing business relationships.

In response to these concerns, USCG Headquarters directed the field COTPs to verify a reception facility's compliance with MARPOL reception facility requirements during facility exams. They also directed COTPs to send reports of inadequate reception facilities up the chain of command to USCG Headquarters. Thus far none have been received. To assist ship operators, the Coast Guard has placed all MARPOL-certified reception facility information on the Internet at:

<http://cgmix.uscg.mil/default.aspx>. The site provides an up-to-date list of ports and terminals that hold Coast Guard issued Certificates of Adequacy (COA).

### ***C-TPAT Seminar***

The U.S. Customs and Border Protection (CBP) will host a Customs-Trade Partnership Against Terrorism (C-TPAT) anti-terrorism seminar

entitled Supply Chain Security in a Post 9/11 Environment on April 4-6 in New Orleans, LA.

The seminar is open to certified C-TPAT members only. Attendees should be directly responsible for the implementation of the C-TPAT program throughout their organization's supply chain. The agenda will focus on the need to improve supply chain security. Topics to be discussed will include: The Safe Port Act, Advance Trade Data Elements, Third Party Validation Pilot Program, Secure Freight Initiative, Cargo Theft, and Open Source Intel and Risk Assessment. There is no registration fee for the seminar. More information on the seminar may be obtained by visiting the CBP website or by emailing to:

[2007C-TPAT.seminar@dhs.gov](mailto:2007C-TPAT.seminar@dhs.gov).

### ***eNOAD For CARICOM Nations***

The Cricket World Cup 2007 will be hosted by the CARICOM nations during March and April of 2007. CARICOM is the Caribbean Community, which includes the following Caribbean nations: Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago. Since this will be a World gathering, there is a concern for security and potential terrorists incidents. Accordingly, the Coast Guard will share the data collected through the eNOAD process with these nations.

Since February 1, 2007, the U.S. Coast Guard's National Vessel Movement Center is accepting and processing Electronic Notices of Arrival and Departure (eNOAD) for CARICOM nations as a safety and security measure during the 2007 Cricket World Cup. Vessel's calling CARICOM nations are required to submit eNOADs in the same manner as for U.S. arrivals, regardless of whether or not the vessel is calling a U.S. port. At this time, an ending date for this requirement has yet to be announced. Vessels submitting eNOADs for CARICOM nations must use eNOAD Version 4.1, as Version 3.0 is not configured for CARICOM submissions. For all other eNOAD submissions, V 3.0 or V 4.1 may be used. All previous versions of the eNOAD patch are obsolete and no longer accepted. We recommend that vessels using the InfoPath and



eNOAD software install and use V 4.1, as V 3.0 will eventually be phased out. More information and the V 4.1 patch are available at <http://www.nvmc.uscg.gov>.

Please contact us if you have any questions regarding this new requirement.

### ***ENOAD Regulatory Interpretation***

On July 28, 2006, Coast Guard Headquarters in Washington, DC issued G-PCV Policy Letter 06-05, providing an interpretation of "port or place of destination" to eliminate recurring problems associated with the application of the eNOAD regulations. The policy reemphasizes the regulatory definition of "port or place of destination" as where a vessel is bound to anchor or moor. In the past, some COTPs have required the arrival time at the berth only and not the anchorage. Arrival at the sea buoy or pilot station is not considered to be a proper "port or place of destination. In addition, the policy clarifies that shifting from between docks, berths and anchorages, within the same port area is not considered a transit from a port or place to a different port or place.

In response to the Coast Guard Headquarters Policy Letter, various Coast Guard Captains of the Port (COTP) issued their own clarification notices in the form of Marine Safety and Security Bulletins and Port Security Information Bulletins. While it stands to reason that local COTP clarifications should be compatible with each other, based upon the USCG Headquarters' guidance, this may not always be the case. Recently we had the occasion to review the local policy of two neighboring COTPs on the East Coast and found a completely different interpretation of what each considered the "port or place of destination", despite the USCG Headquarters' guidance. One COTP required vessels stopping at anchorage prior to mooring at a receiving facility to list the time at the anchorage as the arrival time. The other COTP required the vessel to list the time at the berth where cargo operations would be conducted, regardless of whether the vessel would stop at the anchorage to await the berth. The only exception was if the vessel was going to lighter or bunker at the anchorage.

After we brought this to their attention, the local policy of the one COTP was changed to be compatible with the other COTP. Now both COTPs require vessels stopping at an anchorage prior to mooring at a receiving facility to list the time at the anchorage as the arrival time.

What this means for vessel Masters submitting eNOADs, is that they still must be alert to possible differing COTP interpretations to avoid the potential for a monetary penalty or being held out of port for an improper eNOAD filing. Accordingly, it is a good idea for persons submitting eNOAs to check with their local Port Agent, prior to arrival, if they plan to go to an anchorage, to determine if there is any local policy regarding "port or place of destination" arrival time.

### ***PCSOPEP Modifications***

The Autoridad Del Canal De Panama (ACP) has issued MR's Advisory to Shipping No. A36-2006, modifying the procedures for Panama Canal Shipboard Oil Pollution Emergency Plans (PCSOPEP). The Advisory implements, among others, the following measures:

- o PCSOPEP Plans and their corresponding Notice of Acknowledgement (NOA) that expire between 1 January 2007 and 31 March 2007 will be valid through 31 March 2007.
- o PCSOPEP Plans and their corresponding Notice of Acknowledgement (NOA) issued on or after 1 January 2007 will be valid for four years or until invalidated by any condition described in Panama Canal Notice to Shipping No. N-12-2006 (Section 1.4).
- o As of 1 January 2007, all PCSOPEP submissions will be subject to the following requirements:
  - o Plans will only be accepted via electronic mail at **pcsopep@pancanal.com** in Portable Document Format (\*.pdf);
  - o Only one plan shall be submitted per electronic mail;
  - o The subject line of the electronic mail shall indicate the name and ACP Ship Identification Number (SIN) of the vessel.
- o PCSOPEP submissions that fail to comply



with the above-mentioned requirements will be rejected.

- o The ACP will only verify PCSOPEPs and provide feedback to vessels within 10 days of their Estimated Time of Arrival (ETA) to Panama Canal waters. The aforementioned ETA refers to the registered time in the Enhanced Vessel Traffic Management System (EVTMS) of the ACP. Requests for PCSOPEP information outside this timeframe will not be acknowledged.

### **California Air Emissions Update**

In our Fall 2006 Newsletter, we discussed the new California Air Resources Board (CARB) air emission reduction requirements for ships visiting California ports. On January 1, the new regulations became effective and require ships calling California ports to utilize either marine gas oil (DMA) (regular ISO specification: usual 1.5% sulfur max) or Marine Diesel Oil (DMA) at or below 0.5% sulfur content in their auxiliary diesel engines. Direct-drive propulsion engines, turbines, and boilers are not covered by the regulation. The regulations require vessels to switch to the low sulfur diesel or gas oil twenty-four nautical miles from the California Baseline, despite the fact that State jurisdiction more than three mile offshore is disputable.

Vessels may use alternative control measures such as shore side electrical power or exhaust emission controls to reduce its emissions to the same level or, in certain situations, the vessel

may pay a noncompliance fee (discussed in our Fall Newsletter).

The vessel must also maintain records showing when it entered and departed California waters and when it switched fuels. Records must also be kept regarding fuel purchases and sulfur content.

Beginning January 1, 2010, vessels may only use marine gas oil with a maximum sulfur content of 0.1%. The following link has the complete text of the final regulation: <http://www.arb.ca.gov/regact/marine2005/revfro13.pdf>.

### **More on Air Emissions**

The IMO issued a recent news release, reminding the maritime community that the North Sea SOx Emission Control Area (SECA) entered into force on 22 November 2006. There is a one-year grace period before active enforcement is scheduled to commence. In a SECA, the sulphur content of fuel oil used onboard ships subject to the MARPOL Convention must not exceed 1.5% m/m. As an alternative, ships may fit an exhaust gas cleaning system. Amendments to MARPOL Annex VI and the NOx Technical Code relating to conduct of surveys and issuance of certificates also entered into force on 22 November 2006. The Baltic Sea Area has already been designated as a SOx Emission Control Area and has been implemented and operational since May 19, 2006



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**26 E. Bryan Street**  
**Savannah, GA 31401**  
**Tel: (912) 233-8181 (24 hr)**  
**[csi@compliancesystemsinc.com](mailto:csi@compliancesystemsinc.com)**