



# Compliance Systems, Inc.

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News from the USA

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## Spill Leads to Proposed Legislation

In the wake of the *M/V Cosco Busan's* allision and oil spill in the San Francisco Bay on November 7, 2007, Senators Barbara Boxer (D-CA) and Dianne Feinstein (D-A) have collaborated to introduce the **Maritime Emergency Prevention Act** and the **Oil Spill Accountability Act**. The Maritime Emergency Prevention Act would strengthen the authority and the resources of the Coast Guard's Vessel Traffic Service (VTS). This bill ensures that the Coast Guard has the authority to order ships to change speed or course in an emergency or during hazardous conditions. The measure also authorizes \$20 million in funding for the Coast Guard to upgrade VTS technology, and would, where necessary, require pilots to have their own navigational laptop computers.

Sen. Boxer said, "If the Coast Guard VTS sees a ship like the *Cosco Busan*, headed in the wrong direction and traveling too fast, they should have the authority to intervene. We're talking about situations where seconds and minutes can make all of the difference in the world—there isn't time for second-guessing and ambiguity."

Sen. Feinstein added, "This legislation makes it clear that the Coast Guard has the authority to intervene if a ship is in imminent danger or distress. Therefore, there is no doubt that the captain of a port can stop a ship in the event of an emergency."

The Oil Spill Accountability Act is "designed to reduce the risk of oil spills and increase the incentive for making cargo ships safer." This legislation would increase the U.S. liability limits for clean-up costs and other damages. Under Oil Spill Liability Trust Fund, current caps are set at \$1,900/gt for double-hulled tankers, \$3,000/gt for single-hull tankers, and \$950/gt for other cargo ships. The new bill as proposed would raise the liability limits for cargo ships to the same level as oil tankers, theoretically providing new incentive to use double-hulls around fuel tanks.

CSI will follow the progress of these proposed bills and keep you advised accordingly.

## USCG Voluntary Disclosure Policy

On November 14, 2007, the U.S. Coast Guard issued its Environmental Crimes Voluntary Disclosure Policy. This policy allows the Coast Guard to impose civil, rather than criminal, penalties on a vessel owner or operator who voluntarily discloses environmental violations. The Disclosure Policy applies to criminal



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### **Ballast Water Reporting**

#### **Forms:**

Ballast Water Reporting forms must be submitted to the National Ballast Information Clearinghouse (NBIC) prior to arrival at all U.S. Ports during a voyage. A separate form must be submitted for each U.S. port during voyages with multiple port calls.

Copies of the fax confirmation or e-mail receipt should be attached to the reporting forms .

Full requirements for ballast water reporting can be found in 33 CFR 151.2045

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**IMPORTANT NUMBERS**

**National Response Center:**  
(202) 267-2675

**National Vessel Movement Center:**  
(304) 264-2502

**MTSA / ISPS Help Desk:**  
(877) 687-2243

**CSI Tip:**

When contacting CSI to conduct a Qualified Individual (Q.I) Drill or to report an actual incident, please use our **24-Hour Response Telephone Number (912-233-8181)** as our primary point of contact. This number is monitored 24 hours a day, seven days a week. If for some reason, this number connects you to voice mail, please leave a message or call one of us on our mobile phone as directed by the message.



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violations under all of the U.S. environmental regulations that the USCG enforces and may provide companies an avenue to potentially avoid prosecution by establishing a compliance management system in which non-compliances and violations are discovered and reported. The U.S. Department of Justice (DOJ), however may still prosecute environmental crime cases without the referral or recommendation of the Coast Guard. While the Policy offers possible protection for Companies, individual workers caught violating environmental rules can and will be prosecuted criminally.

The Policy does not require any formal enrolment, but any company seeking protection under the scheme should have an effective in-house compliance program. Compliance Systems has developed a number of these programs for our clients and is happy to assist you in the development of such a program. Regarding the disclosure aspect of the policy, we strongly advise that you consult with your attorneys prior to making any voluntary disclosure to the USCG. Regardless of whether or not you decide to adhere to the voluntary disclosure notification to the Coast Guard, the development of such a compliance program in this climate of criminal prosecutions with prison terms and millions of dollars in fines, is highly recommended.

The main goal of the Policy is to shift the focus to more on prevention and less on prosecution. In order for a Company or a vessel to benefit from the Voluntary Disclosure Policy, there must be close cooperation between the involved parties and the USCG. The Company must cooperate with the USCG and provide it with the information needed to determine Disclosure Policy applicability. The Company must not hide, destroy, or tamper with possible evidence following discovery of potential environmental violations.

As mentioned above, Compliance Systems has assisted a number of companies in developing Environmental Management System / Compliance Programs. If your Company is interested in preparing and implementing such a Compliance Program, please contact us. The full Voluntary Disclosure Policy may be found online at:

<http://www.uscg.mil/foia/docs/CH-4%20Appendix%20V.pdf>

## ***California Shoreline Protection Regulations***

The new California Shoreline Protection Requirements went into effect on May 1, 2007 for tank vessels and Sept. 1, 2007 for non-tank vessels, and require all vessels over 300 gross registered tons to ensure that response resources are in place to protect shoreline and sensitive site areas. These sites include less commercial areas such as Humboldt Bay, San Diego Bay and Santa Barbara Channel/Port Hueneme. The new regulations will now require that you provide your Oil Spill Removal Organization (OSRO) with a minimum of 24-hour advance notice of arrival so that equipment and personnel can be pre-positioned in the designated area for standby service.

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This procedure is similar to the advance notice required when arranging Average Most Probable Discharge (AMPD) coverage for vessels conducting offshore transfer operations. Kindly note the regulations require coverage only during transit from 3 miles out to shore. Therefore once you reach the terminal, coverage can be "turned off" by notifying your OSRO. Once the vessel is scheduled to leave you must again provide 24 hour advance notice to reinstate the coverage until the vessel reaches the 3 mile point. If the vessel will only be in port a short time, you may consider continuous coverage.



Additional information regarding these regulations can be found on California's Office of Spill Prevention and Response (OSPR) website at <http://www.dfg.ca.gov/ospr/index.html>.

Please contact CSI if your vessels will calling the above ports as we may need to amend your California Plan.

## ***California Air Pollution Regulation Proposed***

The California Air Resources Board (CARB) is considering new port-related emissions reduction programs that if passed are intended to reduce particulate matter from ships calling California ports by 2014. The proposed regulation would require most container, passenger, and refrigerated cargo vessels to turn off their auxiliary diesel generators during most of their time alongside berth. Once berthed, the vessels would be expected to receive their electrical power from shoreside generators or other power sources, or meet percentage reductions through other means. Next year, CARB expects to introduce similar regulations for bulk carriers, tankers, and vehicle carriers. If approved, the new regulations will be in effect in the ports of San Diego, Los Angeles, Long Beach, Port Hueneme, Oakland, and San Francisco. We will follow the progress of this proposal,

## ***California Notification of Bunkering Operations***

The State of California Code Of Regulations Title 14, Subchapter 6, Section 843.8 details Pre-Transfer Requirements for Oil Transfer Operations. Under these regulations, all tank, and non-tank vessels must contact their contracted Oil Spill Removal Organization (OSRO), prior to conducting oil transfers or bunkering operations in California waters. The notification must be made prior to the signing of the Declaration of Inspection (DOI). The name of the contracted OSRO is located in the Vessel Response Plan (VRP) and California Oil Spill Contingency Plan. Notification may be made by phone, email, or fax.

## ***Ship Security Officer Proof of Training***

Amendments to the STCW convention and Code, adopted in May 2006 and entering into force on 1 January 2008, add new minimum mandatory training and certification requirements for persons to be designated as ship security officers (SSOs). The amendments to the STCW Convention and to parts A and B of the STCW

### **ISPS Tip:**

Most Ship Security Plans require that a Visitors' Log be maintained by the gangway watch detailing persons who board the vessel, the purpose of their visit, and their arrival and departure time. Frequently, we have observed the gangway watchman handing a pen to the visitor to make the entry. We recommend that the gangway watchman make all Visitors' Log entries himself to ensure that the entries are correct and legible.

### **USCG Inspection Tip:**

During a U.S. port call, the ship's agent will take several certificates ashore for Customs clearance. We recommend that the vessel retain copies of all certificates taken ashore in case the USCG comes aboard for an inspection. Copies of U.S. Customs tonnage tax and user fee receipts are not necessary for a USCG inspection.

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Code include Requirements for the issue of certificates of proficiency for Ship Security Officers; Specifications of minimum standards of proficiency for Officers. The amendments also provide that until 1 July 2009, an STCW Party may ship security officers; and Guidance regarding training for Ship Security continue to recognize personnel who hold or can document qualifications as ship security officers issued before the entry into force of the regulation.

### **Q.I. Reminder:**

Occasionally, State regulators, particularly on the U.S. West Coast, will board vessels to conduct unannounced pollution exercises. Some states, such as Oregon, require the Q.I. To actually make notification calls to the U.S. National Response Center and/or the OSRO.

If a state or local official boards your vessel to conduct an unannounced drill, be sure to contact your Q.I. If Compliance Systems is your Q.I., contact us on our **24-Hour Response Telephone Number: (912) 233-8181.**

### ***“Wallpaper”***

With the implementation of the onboard Safety Management System, ISPS shipboard security, Bridge Team Management, and environmental management and prevention it is easy to understand why the bulkheads on the bridge, engine room, and passageways are covered with policies, procedures, safety warnings, standing orders, vessel plans, and so on. On many ships the posted notices are starting to look like wallpaper. Most, if not all of the postings are there for an important purpose: to inform, instruct, and prevent crewmen onboard from repeating a mistake that was learned from someone else's earlier mistake. The problem is that with the wallpaper effect, crewmen onboard are not able to readily identify and locate a specific policy, procedure, plans, or standing order that the company has requested the Master to post. During audits, it is not uncommon to ask a crewman to locate a procedure or standing order, and watch him run in circles trying to locate it. To overcome this, we recommend the operators and crew designate a specific area on the bridge, engine room, passageways, mess rooms, etc. where the crew can readily identify individual subjects relating to policies, security, pollution prevention, safety, standing orders, etc.... We recommend the heading for each of each of these designated subject areas be in a **LARGE BOLD HEADING** so crewmen would be able to identify the area from across the room. The vessel's crew and/or company could generate an index page to be posted which would provide easy reference for the crewman to locate the information he is searching for. If the company has a large fleet, having a standardization location of onboard-posted material would allow crew going from one vessel to another to readily locate the necessary material on another fleet vessel.



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