



# Compliance Systems, Inc.

26 East Bryan Street \* Savannah, GA 31401 USA \* Tel: (912) 233-8181 \* Fax: (912) 231-2938  
www.compliancesystemsinc.com \* E-mail address: csi@compliancesystemsinc.com

News from the USA

Fall 2009

## ***New Vessel Response Plan Regulations Finalized***

On August 31, 2009, the U.S. Coast Guard announced a Final Rule regarding changes to Vessel Response Plan regulations in 33 CFR 155. The new regulations address dispersants, salvage, and marine firefighting requirements. The new regulations will go into effect on February 22, 2011. When the regulation goes into effect, Vessel Response Plan holders will be required to contract with an Oil Spill Removal Organization (OSRO) for dispersant services in locations where use of dispersants is pre-authorized. Dispersant use is pre-authorized in most U.S. States, with the exception of Washington. Additionally, Vessel Response Plan holders will also be required to submit a vessel pre-fire plan to the contracted salvage resources. The rule established response time requirements as well as drill and exercise requirements. The Final Rule may be found online at <http://edocket.access.gpo.gov/2009/pdf/E9-20311.pdf>, while the regulations pertaining to firefighting and salvage can be found at <http://edocket.access.gpo.gov/2008/pdf/E8-30604.pdf>. As the deadline for the changes approaches, CSI will be in contact with all of our clients to insure that the appropriate changes are made to each VRP.

## ***U.S. Coast Guard May Force Changes in Facilities' Shore Leave Policies***

Since ISPS Code and the U.S. Maritime Transport Security Act (MTSA) went into effect in 2004, many U.S. facilities have placed severe restrictions on vessel crew access policies, frequently prohibiting crewmembers from departing the vessel for shore leave, crew changes, and even routine medical treatment. At the urging of several seaman's church organizations and other seafarer advocates, the Commandant of the Coast Guard, Admiral Thad Allen, has hinted that change in the current law may be forthcoming, requiring facilities to allow and facilitate crewmembers' shore leave. Admiral Allen has asked Captains of The Port (COTP) not to approve Facility Security Plans that do not adequately allow for crew access to and from vessels. Admiral Allen has advised each COTP that the USCG's Office of Maritime and International Law has concluded that the Coast Guard has the authority to mandate that the MTSA regulated facilities provide reasonable access to seafarers. Captains of The Port have been advised to confirm that every plan submitted for review specifically describes how coordination of crew changes and shore leave will be accomplished by the facility.



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### **Reminder**

U.S. Daylight Savings time ends Sunday, November 1, 2009. As Standard Time begins, clocks will be set backward by one hour.



### **IMPORTANT NUMBERS**

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

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

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

**CSI 24 Hour Emergency:**  
(912) 233-8181

### **Port Security Advisory 7-09**

On September 1, 2009, the U.S. Coast Guard issued Port Security Advisory (7-09) which added the Republic of The Congo (with the exception of the Djeno Oil Terminal) to the list of nations the USCG has determined do not maintain effective anti-terrorism measures in its ports.

Currently, the following countries are included under these rules: Republic of The Congo, Cambodia, Cuba, Cameroon, Equatorial Guinea, Guinea-Bissau, Indonesia, Iran, Liberia, Mauritania, Syria, and Venezuela

All Port Security Advisories can be found online at

<http://homeport.uscg.mil>.

## ***eNOA/D Submission Requirements for New Orleans / Mississippi River Area***

On August 20, 2009, The U.S. Coast Guard Sector New Orleans issued a Marine Safety Bulletin which clarifies Electronic Notice of Arrival/Departure (eNOA/D) requirements for the Port of New Orleans and other ports on the Mississippi River under the jurisdiction of the Captain of The Port (COTP) of New Orleans. 33 CFR 160.212 states that the submission time requirement for the Notice of Arrival is based on the estimated date and time of arrival to the "Port or Place of Destination" for which a vessel is bound. The port or place of destination is defined by 33 CFR 160.204 as "any port or place where a vessel is bound to anchor or moor." In the past the COTP of New Orleans requested that vessels base their eNOA/D submission time on the first place where the vessel will anchor or moor for U.S. Customs Border Protection inspection. However, due to the unique layout and operations of the Port of New Orleans, including lengthy transit times, multiple anchorages and berths, and numerous operations within the Tri-Port Area, the COTP now requires that all vessels entering the New Orleans COTP Zone via the mouth of the Mississippi River at the Southwest Pass submit their eNOA/D with the arrival date and time to the first place they intend to anchor or moor. In addition, the "Arrival Port/Place" field should show only the Customs-Border Protection port that the vessel plans to be entered and cleared by CBP, i.e. New Orleans, Gramercy, or Baton Rouge.

For example, if a vessel plans to arrive at the Southwest Pass sea buoy on November 11th at 2300, anchor at the Nine Mile Anchorage at 1000 on November 12th for bunkers, then will proceed to Cooper Darrow at 1300 on November 15th for CBP clearance and cargo operations, the e/NOAD data will be entered as follows:

**City:** Baton Rouge

**State:** Louisiana

**Arrival Port/Place:** Baton Rouge

**Place/Anchorage:** Nine Mile Anchorage for Bunkers

**Receiving Facility:** Cooper Darrow 11/15 @ 1300

**Arrival Date:** 11/12/09

**Arrival Time:** 10:00

Please contact us if you have any questions regarding these notification procedures.

## ***Discharge of Cargo Hold Washing in the Gulfs Area and Mediterranean Sea Area Under MARPOL Annex V***

MEPC.1 / Circ. 675, issued by the International Maritime Organization (IMO) on July 22, 2009, addresses the discharge of cargo washing water in the Gulfs Area and in the Mediterranean Sea Area under MARPOL Annex V. The Marine Environmental Protection Committee has determined that cargo hold washing water, containing the remnants of any dry cargo material, generated in connection with the ship cleaning its cargo holds should not be treated as garbage under MARPOL Annex V within the *Gulfs Area* and *Mediterranean Sea Area*; and such cargo hold washing water may be discharged at a greater distance than 12 nautical miles from shore within these areas. Cargo residues in the washing water must not originate from a cargo material that is classified as a marine pollutant under the IMDG code. MEPC 59 recalled, however, that paragraph 17.10 of the Guidelines for the implementation of MARPOL Annex V state that such cargo residues are expected to be in small quantities.

## ***NPDES / VGP Update***

The US Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Vessel General Permit (VGP) process went into effect on February of this year and only now is there a process for vessel owners and operators to obtain the VGP. Many Coast Guard officers we communicate with have indicated they have not received any information or training on how the EPA NPDES program will be monitored and enforced.

The deadline for filing the eNOI for vessels trading to the United States was Saturday, September 19, 2009. Existing vessels delivered to owner or operator after September 19, 2009 that were not previously authorized under permit will need to complete the NOI process at least 30 days before the vessel arrives into US port waters.

For the eNOI process, the operator will need to generate an account at <http://cdx.epa.gov/warning.asp>. We recommend only one account be generated for the company and that the name identified in the account is the same as the person who will be certifying the information. There are two methods to input the data. One is to add each vessel individually on the website and the other is to use the Excel batch upload template. Once the input has been added, the certifying official will need to review the file, certify it and print it out.



### **VRP Information**

The USCG Office of Vessel Activities (CG-543) has published Policy letter 09-02 Industry Guidelines for Requesting Alternate Planning Criteria Approval, One Time Waivers And Interim Operating Authorization. The policy letter is available at the link below. Should you have any questions regarding this please contact CSI or LT Xochitl Castañeda or another member of the CG-5431(VRP) Staff.

[www.uscg.mil/vrp](http://www.uscg.mil/vrp) scroll down to Tank Vessel Response Plans, Alternate Planning Criteria

### **CARB Update**

Effective July 1, 2009, the California Air Resources Board (CARB) regulations for low sulfur diesel fuel are now being enforced. CARB's Marine Notice 2009-2, issued May 7, 2009, outlines the full regulations, including procedures for requesting waivers and/or payment of non-compliance fees. This Marine Notice can be found in the Newsletter Section of our website: [www.compliancesystemsinc.com](http://www.compliancesystemsinc.com).



## ***Vessel Response Plan Requirements for Vessels Transiting Alaska's Unimak Pass***

In August 2009, the U.S. Coast Guard began issuing "courtesy letters" to operators whose vessel's transited Alaska's Unimak Pass without the Western Alaska Captain of the Port Zone listed in their approved Vessel Response Plan

In order to trade to Alaska you must obtain an Alaska COFR, Alaska State Contingency Plan and additional OSRO resources located in Alaska, set forth in Alaska who are not capable of meeting the necessary time frames for response. However we are advised that to transit the Unimak Pass you must meet the USCG requirements but not the State requirements as you will not be calling a port within the State of Alaska.

### **Oil Content Monitor Tip:**

There are many different types of oil water separator oil content monitors (OCM's) on the market today and for the new OCM's there are different procedures for reviewing the memory data, servicing, calibrating, and troubleshooting the equipment. For this we recommend the Chief Engineers and engineering officers review the specific manufacturers procedures for the equipment onboard to ensure the equipment is functioning normal.

To meet the USCG requirements vessels must enroll with Alaska Chadux to provide OSRO services on an individual vessel basis. Alaska Chadux will issue the vessel a certificate of coverage which must be sent to USCG Headquarters, who will then approve the VRP for the Western Alaska COTP for each individual vessel. This is a yearly enrollment (Jan 1 thru Dec 31) of \$850.00 per vessel, with unlimited transits

A second option would be to divert the vessel beyond the Unimak Pass and Aleutian Islands to be beyond US waters, which would be outside the US jurisdiction and no additional coverage or expense would occur.

Initially, we argued that passing through the Unimak Pass, without stopping for trade, constitutes "innocent passage," and should not require Western Alaska to be listed on the VRP. However, USCG headquarters advises that if a vessel is departing from, or bound for, a U.S. port during transit of the Unimak pass, the transit is not considered "innocent passage." However a vessel transiting the Unimak pass while in transit between two non-U.S. ports, "innocent passage" should apply, and the Western Alaska COTP approval would not be required in the VRP.



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Hamilton House  
26 East Bryan Street  
Savannah, GA 31401

Phone: (912) 233-8181  
Fax: (912) 231-2938  
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