

U.S. Department of
Homeland Security

United States
Coast Guard



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CG-CVC Policy Letter
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From: 
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COMDT – Commercial Vessel Compliance (CVC)

To: Distribution

Subj: GUIDELINES FOR COMPLIANCE AND ENFORCEMENT OF THE EMISSION
CONTROL AREAS ESTABLISHED WITHIN THE UNITED STATES
JURISDICTION AS DESIGNATED IN MARPOL ANNEX VI REGULATION 14

Ref: (a) CG-543 Policy Letter 09-01 dated February 4, 2009
(b) Resolution MEPC.176(58) – Revised MARPOL Annex VI
(c) Resolution MEPC.177(58) – NOx Technical Code 2008
(d) Resolution MEPC.190(60) – North American ECA
(e) Resolution MEPC.202(62) – United States Caribbean Sea ECA
(f) EPA Interim Guidance on the Non-Availability of Compliant Fuel Oil for the North
American Emission Control Area
(g) Coast Guard and EPA Memorandum of Understanding (MOU) signed June 27, 2011
(h) U.S. Coast Guard ECA Job Aid

1. Purpose. This policy letter outlines the Coast Guard's methods and procedures for verifying compliance with MARPOL Annex VI Regulation 14 (Sulfur Oxides (SOx) and Particular Matter (PM)) and Regulation 18 (Fuel Oil Availability & Quality), and how violations identified by the Coast Guard regarding these two regulations are documented and referred to the Environmental Protection Agency (EPA) for enforcement. The Coast Guard, pursuant to the Act to Prevent Pollution from Ships (APPS) at 33 U.S.C. § 1907(f), has the authority and responsibility to conduct ship inspections, examinations, investigations, and to undertake enforcement action. The EPA has the authority specified in 33 U.S.C. § 1907(f), to enforce the requirements of MARPOL Annex VI Regulations 13, 14 & 18. In general, the Coast Guard is responsible for verifying compliance with all of MARPOL Annex VI and the EPA is responsible for the enforcement of violations pertaining to Regulations 13, 14 & 18.
2. Directives Affected. None.
3. Action. Sector Commanders/Officers in Charge, Marine Inspection (OCMIs) should direct their Marine Inspectors (MIs) and Port State Control Officers (PSCOs) to utilize this policy for procedures pertaining to compliance verification and enforcement with the provisions of MARPOL Annex VI, regulation 14 (as amended) and regulation 18. Reference (a) remains in effect and should be followed by MIs/PSCOs when verifying compliance with the other

regulations in MARPOL Annex VI. If conflicts between reference (a) and this policy letter are identified with respect to ECA issues, this policy letter shall take precedence.

4. Background.

- a. Since January 8, 2009, U.S. and foreign flagged ships operating in the waters of the United States have been subject to Annex VI. The Marine Environmental Protection Committee (MEPC) of the IMO adopted amendments to Annex VI and the nitrogen oxides (NO_x) Technical Code, collectively referred to as Annex VI (Revised) (see reference (b) & (c)). Annex VI (Revised) entered into force on July 1, 2010. These amendments include significant and progressive limits for SO_x and NO_x emissions from marine engines and for the first time addressed emissions of PM. The amendments replaced the SO_x Emissions Control Areas (SECA) by introducing the concept of Emission Control Areas (ECA) for SO_x, NO_x, and PM.
- b. On March 26, 2010, MEPC at its 60th session adopted amendments to MARPOL Annex VI, by resolution MEPC.190(60) to designate the new North American ECA and at its 62nd session (July 2011) by resolution MEPC.202(62) to designate the U.S. Caribbean Sea ECA. The North American ECA entered into force on August 1, 2011 and shall take full effect on August 1, 2012 and the U.S. Caribbean Sea ECA enters into force on January 1, 2013 and shall take full effect on January 1, 2014 as specified in MEPC.1/Circ.756. The boundaries of the North American and the U.S. Caribbean Sea ECA are defined in references (d) & (e), respectively.
- c. On June 26, 2012, the EPA issued an *Interim Guidance on the Non-Availability of Compliant Fuel Oil for the North American Emission Control Area* (see reference (f)). This guidance addresses how the EPA will implement fuel oil availability provisions of Annex VI Regulation 18 for ship owners and operators unable to obtain fuel oil that meets the fuel oil sulfur standards (e.g., lack of fuel oil availability) applicable to ships operating in the U.S. ECA(s).
- d. The Coast Guard has entered into a Memorandum of Understanding (MOU) with the EPA (reference (g)) dated June 27, 2011, to set forth the terms by which the USCG and EPA will mutually cooperate in the implementation and enforcement of Annex VI to MARPOL as implemented by APPS.

5. Methods & Steps to verify Compliance with MARPOL Annex VI, Regulation 14 (amended). Ship operators must control sulfur oxide emissions through the use of low sulfur fuel or equivalent arrangements. The MI/PSCO should ascertain the approved method utilized to comply with MARPOL Annex VI Regulation 14.4, by reviewing sections 2.3 and 2.6 in the ships IAPP¹ Supplement.

¹ Ships holding a valid IAPP Certificate issued before July 1, 2010 are not required to update their IAPP Certificate and its Supplement with the new format provided in Annex VI revisions, until the certificate's normal scheduled renewal date.

- a. **Ships utilizing low sulfur fuel for compliance:** MARPOL Annex VI requires each Party to the Annex to take all reasonable steps to promote the availability of compliant fuel in its ports and terminals [Regulation 18.1]. For ships using low sulfur fuel oil, separate fuel supplies may be carried for use while operating worldwide and within the ECA's. Refer to table 1 below for the fuel oil sulfur limits referred to in MARPOL Annex VI Regulation 14.1 (worldwide) & 14.4 (ECA).

Fuel Sulfur Standard (max % by weight)

Global Sulfur Cap		ECA Sulfur Cap	
On and after Jan. 1, 2012	3.50%	On and after Aug 1, 2012	1.00%
On and after Jan. 1, 2020	0.50%	On and after Jan. 1, 2015	0.10%

Table 1 – Maximum allowable sulfur content in fuel oil by weight

- i. **Non-availability of compliant fuel oil for purchase [MARPOL Annex VI, Reg. 18]:** When a ship operator experiences a situation where low sulfur fuel oil is not available for purchase (e.g., fuel suppliers do not carry 1.00% m/m fuel oil, supplier is awaiting delivery, employees on strike – no deliveries are made) MARPOL Annex VI, Regulation 18.2.4 requires notification be made to the flag Administration and to the competent authority of the relevant port of destination. As such, notifications pertaining to the non-availability of compliant fuel oil for purchase should be provided to the EPA. As noted above, the EPA issued *Interim Guidance on the Non-Availability of Compliant Fuel Oil for the North American Emission Control Area* to assist vessel owners, operators, and management representatives comply with the ECA compliant fuel oil requirements. That guidance, which includes Fuel Oil Non-Availability Reporting, is available on EPA's website at <http://www.epa.gov/otaq/oceanvessels.htm>.
- (1) **U.S. Flag Ships.** When a U.S. flag ship encounters a situation where compliant fuel oil could not be purchased while in a U.S. or foreign port, in addition to notifying the EPA, the ship's crew shall also inform the U.S. Coast Guard's Office of Commercial Vessel Compliance via e-mail to ECA-USflag@uscg.mil. The e-mail subject line should include the following text: U.S. Flag-ECA- Non-availability of compliant fuel oil.
- (2) **Foreign Flag Ships.** If a Coast Guard unit receives notification pertaining to non-availability of compliant fuel oil from a foreign ship, the submitter should be directed to submit a non-availability report to the EPA through the EPA's web site at: <http://www.epa.gov/otaq/oceanvessels.htm>. In addition, the unit is requested to enter a special note in MISLE. A special note example is provided in the ECA Job Aid, reference (h).

ii. **MI/PSCO encountering ship fuel oil with sulfur content exceeding 1.00% m/m while operating in the ECA (under U.S. jurisdiction) should determine if a non-availability report was submitted to the EPA in accordance with reference (f):**

(1) If the required report was submitted:

- a. Verify if notification was provided to the Flag Administration;
- b. Review records of actions taken to attempt to achieve compliance and any evidence submitted to the EPA that the ship attempted to purchase compliant fuel oil (i.a.w. voyage plan);
- c. Obtain a copy of the bunker delivery note(s) for the fuel oil in use while operating in the North American ECA (VI/Reg. 18.7.1);
- d. If the ship is scheduled to receive compliant fuel oil during the port call (or has already received bunkers): Obtain a copy of the bunker delivery note; and
- e. Refer to reference (h) for deficiency examples and recommended actions.

(2) If the required report was not submitted:

- a. Review any records of actions taken to attempt to achieve compliance;
- b. Review any evidence that the ship's crew attempted to purchase compliant fuel oil (i.a.w. voyage plan), whether any attempts were made to locate alternative sources and despite best efforts compliant fuel oil could not be purchased as it was unavailable;
- c. Determine if the flag Administration was notified;
- d. Obtain a copy of the bunker delivery note(s) for the fuel oil in use while operating in the North American ECA;
- e. Request the Master to submit the report per paragraph 5.a.i (2);
- f. If the ship is scheduled to receive fuel oil during the port call (or has already received bunkers): obtain a copy of the bunker delivery note(s);
- g. Refer to reference (h) for deficiency examples and recommended actions.

b. **Ships complying with MARPOL Annex VI, Regulation 14 through equivalent controls, as established in Regulation 4 of Annex VI:** An Administration may approve the use of any fitting, material, appliance or apparatus, alternative fuel oils, or other procedures or compliance methods provided the ship applies a method that is at least as effective in terms of emission reductions. Under APPS, the Coast Guard is responsible for administering Annex VI Regulation 4 (equivalents) however EPA has technical expertise relevant to the determination of equivalent emissions reduction methods. The below outlines equivalency submittal and processing procedures:

- i. **U.S. flagged ships.** Equivalency requests shall be submitted to the Coast Guard at the following address: Commandant (CG-CVC-1); Attn: MARPOL Annex VI; 2100 2nd Street S.W., Stop 7581; Washington DC 20593-7581 or via e-mail to ECA-

USflag@uscg.mil. The e-mail subject line should include the following text: U.S. Flag – ECA Equivalent Controls – Vessel Name – Official Number.

- (1) The Coast Guard will review the request for compliance with safety regulations, policies and procedures. The EPA will review the request as it relates to its effectiveness to control emissions as regulated by U.S. applicable Laws, regulations and Annex VI.
- (2) Following consultation with the EPA, the Coast Guard (CG-CVC) will make the determination of whether the equivalence is accepted. If the equivalence is accepted, in addition to providing written approval to the submitter, CG-CVC will notify the cognizant OCMI who will complete a Supplement to the IAPP Certificate reflecting the equivalence under section 2.6 as applicable. If the equivalence is not accepted, a letter will be issued to the submitter outlining Agency's (USCG and/or EPA) concerns and the reason for denial.

ii. **Foreign flagged ships.** The Coast Guard and EPA have collectively submitted correspondence to the Secretary-General, International Maritime Organization (IMO) outlining the U.S. Government's concerns regarding MARPOL Annex VI, Regulation 4. This correspondence emphasized the importance that flag Administrations coordinate with ECA states before approving equivalencies. This approach is intended to minimize the need for imposing control or enforcement actions against an owner/operator if the U.S. Government does not concur with the ships flag Administration regarding compliance with the ECA requirements. Until additional guidelines are developed at the IMO, the U.S. Coast Guard as the Administration for the United States requests a flag Administration considering an equivalency under Annex VI, Regulation 4, to submit a copy of the proposal to the USCG for review/acceptance. Proposals may be submitted to the Coast Guard at the following address: Commandant (CG-CVC-2); Attn: MARPOL Annex VI; 2100 2nd Street S.W., Stop 7581; Washington DC 20593-7581 or via email to ECA-foreignflag@uscg.mil. The e-mail subject line should include the following text: Flag Administration (e.g., Bahamas Flag) – ECA Equivalent Controls – Vessel Name – IMO#.

- (1) The Coast Guard will review proposals meeting a flag Administrations approval for design and installation, for compliance with applicable U.S. Laws, regulations, policies, and procedures. The EPA will review the proposal as it relates to its effectiveness to control emissions as regulated by applicable U.S. Laws, regulations and Annex VI Regulation 4.4.
- (2) Following consultation with the EPA, the Coast Guard will provide official correspondence to a flag Administration acknowledging the proposal as an acceptable equivalency or provide a statement as to why the proposal should not be accepted with recommendation and/or concerns.

- (3) The Coast Guard will add a special note in our vessel inspection data base (MISLE) for a ship receiving a flag Administration equivalency under Annex VI Regulation 4 which has been received, reviewed and accepted by the Coast Guard.
- c. **Ship operators seeking exception and/or exemption under MARPOL Annex VI, Regulation 3.2:** Trials for Ship Emission Reduction and Control Technology Research allows an exemption from specific provisions of the Annex in cooperation with other Administrations (as appropriate) for a ship to conduct trials for the development of ship emission reduction and control technology. Under APPS, the Coast Guard is responsible for administering Annex VI Regulation 3 (exceptions/exemption), and the EPA has authority for implementing certain Annex VI regulations, including Regulations 13 (NOx) and 14 (SOx). EPA has the technical expertise relevant to the determination of equivalent emissions reduction methods. The Coast Guard in consultation with the EPA interprets Annex VI Regulation 3.2 “in cooperation with other Administrations” to mean that matters regarding an “exception or exemption,” as they pertain to compliance with the U.S. established ECA(s), will be addressed between the Coast Guard and other flag State’s Administration, prior to issuing a permit for such an exception or exemption. Therefore, the procedures outline in paragraph 5.b.i (U.S. flag) and 5.b.ii. (Foreign flag) should be followed for processing a request received by an Administration with the following exception: A permit issued by the flag Administration under Annex VI Regulation 3 for a U.S. established ECA(s) that has been received, reviewed and accepted by the Coast Guard should have a copy of the Coast Guard correspondence on this matter accompany the permit for placement onboard the vessel.
- d. **Transfer Monitors:** Coast Guard Personnel conducting transfer monitors are reminded that ships may purchase fuel oil for operating outside the ECA with a sulfur content of 3.5% m/m or 1.00% m/m for operating within the ECA.
6. **Equipment casualty or failure.** MARPOL Annex VI, regulation 3 allows for exception and exemptions, and specifically, regulation 3.1.2, allows for non-compliant emissions resulting from damage to a ship or its equipment. Furthermore, Annex VI, regulation 5.5 states, “whenever an accident occurs to a ship or a defect is discovered that substantially affects the efficiency or completeness of its equipment covered by this Annex, the master or owner of the ship shall report at the earliest opportunity to the Administration, a nominated surveyor or recognized organization responsible for issuing the relevant certificate.” When equipment approved by an Administration under Annex VI Regulation 4 (equivalency – e.g., scrubber) for complying with the standards set forth in Regulation 13 and 14, experiences a failure the Coast Guard expects a certain degree of redundancy so that the ship may continue to operate in compliance with Regulation 13 or 14 (*e.g. pumps, available spare parts onboard, or alternative arrangements (e.g. Low Sulfur Fuel Oil tanks)*). The Coast Guard will take into consideration a ship which has reported an accident or a defect in accordance with Annex VI, regulation 5.5 whose flag Administration (or their representative) has issued an interim compliance scheme and an outstanding condition due to equipment casualty or failure.

7. Deficiencies². MI/PSCOs should document deficiencies using the appropriate Coast Guard approved form, which is CG-835 (domestic), Port State Control Report of Inspection (Form B) (foreign), or the Deficiency Report (COC³). The ECA Job Aid, reference (h) includes a flow chart to assist in determining compliance with Regulation 14, how ECA deficiencies should be documented, and what evidence should be collected and entered in MISLE. Additional guidance is provided in the *2009 Guidelines for Port State Control under the Revised MARPOL Annex VI (MEPC.181(59))*; and CG-543 policy letter 09-01, the latter being for other related MARPOL Annex VI deficiencies.
8. MISLE – Documentation. As soon as practicable, but in all cases not later than close of business the day following the exam, the MI/PSCOs should enter the MARPOL Annex VI related deficiency in the Coast Guard’s MISLE database under the associated inspection activities’, “Inspection Results.” MIs/PSCOs should choose the appropriate MISLE system, subsystem and component from Table (2) below when entering Annex VI deficiencies:

System	Subsystem	Component
Documentation	Certificates/Documents	Engine Approved Technical File *
Documentation	Certificates/Documents	Engine EPA Approved Technical File
Documentation	Certificates/Documents	Engine IAPP Certificate
Documentation	Certificates/Documents	Required Logbook Entries (Annex VI-Related) *
Documentation	Certificates/Documents	Type Approval Certificate of incinerator *
Documentation	Logs/Records	Bunker Delivery Notes/Samples
Documentation	Logs/Records	Operational procedures for engines or equipment *
Documentation	Logs/Records	Record Book of Engine Parameters
Engineering	Diesel Engine (auxiliary)	Diesel engine relating to air pollution control *
Operations/Management	Pollution	Approved Method for Annex VI Compliance *
Operations/Management	Pollution	Changeover not completed prior to ECA *
Operations/Management	Pollution	Control of NOx
Operations/Management	Pollution	Control of Ozone-depleting Substances
Operations/Management	Pollution	Control of SOx - ECA *
Operations/Management	Pollution	Control of SOx - General
Operations/Management	Pollution	Failure to report Non-Availability of Compliant Fuel *
Operations/Management	Pollution	Other MARPOL Annex VI Deficiencies *
Operations/Management	Pollution	Quality of fuel oil *
Pollution Prevention/Response	Prevention Equipment	Exhaust Gas Cleaning System

² MI/PSCOs must refer to the Supplement to IAPP Certificate [sections 2.3 & 2.6] to determine how a vessel will comply with Regulation 14 of Annex VI as certified by the Administration.

³ The Certificate of Compliance CG-3585 is currently under revision. The revised form will include a Deficiency Report page for documenting exams taking place off shore under domestic statutes (e.g.; lightering zone, MODU – beyond 12 miles).

Table 2 - Annex VI MISLE Data

Note: Those deficiencies marked with an “*” at the end of the component listing are new entries in MISLE and may not be immediately available on the entry into force date (01AUG12). If a deficiency in these areas is uncovered and the entry is not available, MISLE users should select the “Control of SOx – General” entry and enter the deficiency text in the “Details” section.

- a. **Due to the limited character constraints in the MISLE “detail block” MI/PSCO’s should provide:**
 - i. The deficiency code, regulatory site and a brief description of the deficiency.
- b. **Under the “Requirement/Resolution” section, enter the following:**
 - i. Due Date - select the date of the Annex VI verification exam and select “To the satisfaction of the Coast Guard” option.
 - ii. If the Annex VI deficiency was resolved or corrected by the conclusion of the vessel exam:
 - (1) Place a check-mark in the “Resolved/Corrected” block.
 - (2) Select the date of the Annex VI correction.
 - (3) Enter the details of the resolution in the “Resolution” block. (e.g., ship received compliant Fuel Oil on MM/DD/YY and has provided a copy of the relevant Bunker Delivery Note).
- c. **Placing documents/evidence into MISLE:** Documents collected during an inspection/examination for deficiencies regarding the ECA violation(s) (e.g., bunker delivery note, copy of logs, copy of voyage plan, etc...) should be scanned as one file and entered under a Activity’s “document” tab as follows: AnnexVI-ECA-DDMMMYY.PDF (e.g., AnnexVI-ECA-01AUG12.pdf)
- d. **Narrative section:** Since processing Annex VI ECA violations involves multiple agencies, a well written narrative is essential. The narrative should include observations and findings, if the deficiency was corrected by the conclusion of the inspection/exam, a description of any documentary evidence (copies of bunker delivery note(s), IAPP, etc., received by the MI/PSCO) or pictures obtained or viewed, and what control actions, if any, the Coast Guard has taken to address the deficiency. For example, if there is no IAPP Certificate on board and the Coast Guard takes a control action (Code 30/No-Sail), then that action should be described – i.e. ship was subject to an IMO detention for the following reason: ship’s master could not produce a valid IAPP Certificate during the PSC examination. For deficiencies identified in paragraph 10.b below, the MI/PSCO should also provide a brief statement whether the deficiency was referred for Coast Guard enforcement (e.g., LOW, NOV), the relevant enforcement activity number, or indicate no Coast Guard enforcement action was taken. If no deficiencies were identified regarding Annex VI, a brief statement should be entered in the narrative as follows: MARPOL Annex VI – No deficiencies were identified regarding compliance with the (ECA name – e.g., North American) ECA.

9. Enforcement of detected violations.

- a. **USCG detection of violations that will be referred to the EPA for enforcement action (non-criminal).** The Coast Guard's Office of Commercial Vessel Compliance (CG-CVC) staff will perform a weekly query (or other agreed upon schedule between CG-CVC-2 and the EPA) of the Coast Guard's MISLE data base and extract all MARPOL Annex VI entered deficiencies. Deficiencies which correspond to section (9), paragraph (b) (2) of reference (g), where the EPA has the technical expertise to investigate (*ELAPP, NOx technical code, Bunker delivery note, Fuel samples, Fuel oil availability/quality, and Reception facilities for ozone depleting substances*) will be compiled into a report and referred to the EPA for enforcement. No further reporting action is necessary by the Unit (unless local contacts are established by the OCMI), but MIs/PSCOs should make themselves available to assist the EPA with additional information and supporting documentation upon request.
- b. **USCG detection of violations that will not be referred to EPA for Enforcement Action.** Suspected violations detected by the Coast Guard identified in section (9), paragraph (b) of reference (g) (1), (*IAPP, Certificate of Adequacy, VOC management plan*), may be processed for enforcement in accordance with existing Coast Guard policies and regulations. The Coast Guard's Office of Commercial Vessel Compliance (CG-CVC) staff will not refer these identified deficiencies to the EPA as part of the weekly report identified in paragraph 10.a above.
- c. **USCG Detection of Violations, evidence of Criminal Liability.** The Coast Guard will be the lead Agency to conduct the investigation under the authority of 14 USC 89a where evidence of criminal liability on the part of the mariner, owner, operator or other involve party of the ship is found (e.g., intentional use of non-compliant fuel oil with falsified log books). In these cases the EPA will assist as needed. See reference (h) for examples of deficiencies and actions required.
 - i. CG-CVC will maintain liaison with their EPA Headquarters counterpart for timely sharing of reports or information. Captain of the Port/Officer in Charge, Marine Inspection are encouraged to maintain liaison with the local EPA Agents.
 - ii. The EPA may be invited by the cognizant COTP/OCMI to assist in the investigation into the allegations (e.g., fuel sampling) for reports received of this nature during an ongoing Coast Guard inspection or examination. When evidence of a criminal violation is substantiated, the investigation will be completed by the Coast Guard under the authority of 14 USC 89a and referred to the Department of Justice (DOJ) in accordance with existing Coast Guard policies and regulations. During joint investigations, EPA must work through and defer to the CG MI/PSCO or investigator in charge and work under the authorities of the USCG until such time when the

authorities of 14 USC 89a have been exhausted (typically after the USCG has referred the case to DOJ).

- iii. When evidence of a suspected criminal activity is not substantiated under this section, but deficiencies detected are subject to enforcement actions, each Agency will take the appropriate enforcement (civil penalty) action as discussed in paragraphs 10.a. & 10.b.
- iv. Coast Guard Districts may contact CG-CVC-2 (Port State Control Program Manager) at 202-420-9710 (duty cell) for additional guidance.

10. Additional Information and Changes.

- a. This policy, its references, and additional information pertaining to MARPOL Annex VI are available on the Annex VI information page on Homeport at <http://homeport.uscg.mil> by selecting Domestic Vessels, Domestic Vessel General, and then select MARPOL Annex VI.
- b. The ECA Job Aid, reference (h), is also posted on Homeport. It will be updated as necessary; the revision date is located below the title. In addition, CG-CVC-2 will provide notification to the field of any ECA Job Aid updates via the Port State Control monthly message. Changes to the ECA Job Aid will not require this policy letter to be revised nor does it affect signature authority, but ECA Job Aid updates are subject to guidance review.

11. Forms. The forms called for in this policy are available to Coast Guard personnel at: <http://cgweb.comdt.uscg.mil/CGForms/> or <https://cgportal.uscg.mil/delivery/Satellite/CG611>

12. Questions. Questions concerning this policy and guidance should be directed to the Office of Commercial Vessel Compliance at cgCVC@uscg.mil. The e-mail subject line should include the following text: ECA – Coast Guard Policy Question or Comment.

13. Disclaimer. While the guidance contained in this document may assist the industry, public, Coast Guard, and other Federal and State regulators in applying statutory and regulatory requirements, the guidance is not a substitute for applicable legal requirements nor is it a regulation itself. Thus, is not intended to nor does it impose legally binding requirements on any party outside the Coast Guard.

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