

GMS

Gallagher Marine Systems, LLC.

06 March 2013
Client Advisory – #06-13
Electronic Fuel Non-Availability Disclosure Portal

Overview:

This Client Advisory provides information regarding the new electronic portal for submitting Fuel Non-Availability Reports for ships sailing in the North American Emission Control Area (NA-ECA) without compliant fuel. The new portal was announced by the US Environmental Protection Agency (US-EPA) on 27 February 2013 via their website.

The EPA has informed us that, after 11 March 2013, Fuel Oil Non-Availability Reports will no longer be accepted by email (Marine-eca@epa.gov).

Gallagher Marine Systems (GMS) compliance partners with vessels calling the US without compliant fuel and planning to file NA-ECA Fuel Non-Availability Reports are urged to take the steps below as quickly as possible to establish user accounts and become registered in the system.

Background:

The NA-ECA became enforceable on 01 August 2012. The US-EPA in June of 2012 issued Interim Guidance on how to comply with the NA-ECA, including what to do if compliant fuel was unavailable. This Interim Guidance states, in part:

Under MARPOL Annex VI Regulation 18, you are required to make your best efforts to obtain compliant fuel oil. However, you may be unable to do so, and the United States has the authority to take into account all relevant circumstances to determine the appropriate action to take, including not taking any action.

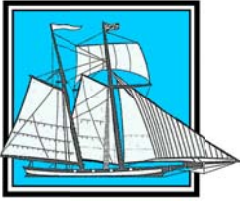
If, despite your best efforts, you are unable to procure compliant fuel oil prior to entering the NA-ECA, you must notify the United States and your flag Administration per Annex VI Regulation 18.2.4.

Even if a Fuel Non-Availability Reports has been submitted, operating within the NA-ECA without compliant fuel remains a violation of Annex VI.

In the Interim Guidance, the US-EPA stated they were developing an electronic system for Fuel Non-Availability Reports. Until this system was available Fuel Non-Availability Reports were to be sent to the US-EPA via email (Marine-ECA@EPA.gov). This email address will no longer accept US-EPA after 11 March 2013. However, it will remain operable as a vehicle for asking questions of the EPA.

Electronic Fuel Oil Non-Availability Disclosure Portal (FOND) & Fuel Oil Non-Availability Report (FONAR):

In the recent announcement, the US-EPA introduced the electronic reporting system "FOND" which becomes the required method of submitting "FONARs" on 12 March 2013. A link to Instructions for using the FOND and submitting a FONAR can be found under the paragraph header "Low Sulfur Fuel Oil Non-Availability" near the bottom of the page at EPA's website: <http://www.epa.gov/enforcement/air/marpolannex.html#fueloil>.



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For your convenience we have included a copy of the instructions as an attachment to the email distribution of this advisory. The process is detailed and the task cannot be completed without referring to the instruction sheet. To give GMS compliance partners an appreciation of the process, the following is an abbreviated outline of the necessary steps:

1. Sign up for a user account on the US-EPA's Central Data Exchange (CDX) system at <http://cdx.epa.gov>;
2. Download, print, sign, and post mail to the EPA an original signature copy of the "CDX Electronic Signature Agreement".
 - a. The mailing address is given in the instructions.
 - b. If you do not submit this paper agreement then your FONAR will not be considered;
3. Add the FOND portal to your CDX home page, adding the requested Organizational (Company) information;
4. Open the FOND portal;
5. Download the detailed instructions on submitting a FONAR;
6. Click on "Request a Form" which will download an Excel file template with Organization information pre-completed;
7. Complete the form and prepare supplemental documentation which includes information on fuel suppliers contacted, a copy of the vessel's Voyage Plan, and a scanned copy of a letter containing an inventory of documents submitted with the filing and signed by the designated Corporate Official.
8. Submit the FONAR and supporting documentation using the FOND Portal.

Once the FONAR has been submitted the vessel should proceed on its intended course and does not need to wait for further confirmation from EPA prior to entering the NA-ECA.

The ship owner or operator is required to maintain records of the FONAR submission for a period of not less than 5 years.

If you have any questions, please do not hesitate to contact GMS at info@chgms.com

END OF ADVISORY