

INTERNATIONAL MARITIME ORGANIZATION
REQUIREMENT FOR MATERIAL SAFETY DATA SHEETS
FOR SHIPS CARRYING OIL OR OIL FUELS

As previously announced in the Federal Register dated June 26th, 2009, and available at www.regulations.gov, docket number: USCG-2009-0553, the International Maritime Organization (IMO) amended SOLAS to require that ships carrying oil or oil fuel be provided with material safety data sheets (MSDSs) prior to the loading of such oil as cargo in bulk or bunkering of oil fuel.

Originally, IMO intended to require MSDSs by adding SOLAS VI/regulation 5-1 through resolution MSC.239(83). However, this resolution, adopted on October 12th, 2007, created an unintended anomaly with its application. Specifically, regulation 1 of SOLAS chapter VI states that "This chapter applies to the carriage of cargoes (except liquids in bulk, gases in bulk and those aspects of carriage covered by other chapters)..." Therefore, the U.S. Coast Guard's interpretation is that resolution MSC.239(83) cannot be enforced neither for oil as cargoes nor for oil as fuels. Furthermore, the U.S. Coast Guard believes that MSC.1/Circ.1303 dated June 10th, 2009, does not preempt the SOLAS Convention Article VIII which lays out the proper way to amend SOLAS including amendments to correct an unintended anomaly.

Some States, party to SOLAS, may reach a differing conclusion with regard to the application of MSC.239(83). The U.S. Coast Guard recognizes that the lack of a uniform application of MSC.239(83) by member States, may cause conflicts for some ships. Therefore, if appropriate, the U.S. Coast Guard encourages ship interests to require MSDSs as a condition of receiving oil or oil fuels. In most cases suppliers already have prepared MSDSs for their products which may facilitate their providing an MSDS.

To correct the unintended anomaly described earlier, IMO further adopted resolution MSC.282(86) on June 5th, 2009. When accepted in accordance with the Convention Article VIII, the amendments adopted by this latter resolution will enter into force on January 1, 2011, which is when the U.S. Coast Guard intends to begin verifying that ships subject to SOLAS have been provided with MSDSs, as required.

Through adoption of resolution MSC.286(86), IMO has also recommended a format for MSDS's effective July 1, 2009. The Coast Guard encourages the use of the IMO recommended format and content. Other States may require MSDSs to strictly follow the IMO recommendations beginning July 1, 2009. In such cases suppliers will have to modify their MSDSs (or in some cases prepare MSDSs) that strictly follow the IMO recommended format.

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