



Association of Transportation Law Professionals

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COOPERATION BETWEEN U.S. COAST GUARD AND NATIONAL CARGO BUREAU FOR EXAMINATION AND SHIPMENT OF HAZARDOUS CARGO

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On May 18, 2024, the United States Coast Guard (Coast Guard) and the National Cargo Bureau, Inc. (NCB) executed a Memorandum of Understanding (MOU) reaffirming their historical collaboration to inspect and monitor hazardous material cargo both in ports and at sea. [1] Specifically, the latest MOU provides for cooperation during port inspections for the purpose of implementing their shared goal of promoting safe shipping across the globe. [2] The stated ultimate purpose of the MOU is to protect human life, cargo, vessels, the environment, and the public interest in preventing a release of hazardous cargo. The MOU will expire of its own terms on May 1, 2029.

Statutory and Regulatory Authority Promoting Safe Carriage and Stowage of Hazardous Cargo

The Coast Guard is vested with the power to inspect and examine (1) hazardous cargo and (2) waterfront facilities in the United States. [1] The Coast Guard is authorized to conduct inspections of containers to assure compliance with the *International Safe Container Act of 1977*, §§ 80501-09 (ISCA). [2] In addition the Coast Guard conducts inspections of containers pursuant to the *Federal Hazardous Materials Transportation Law*, 49 U.S.C. §§ 5101-5127 (FHMTL). [3]

The NCB is a “not-for-profit surveying organization charged with assisting the Coast Guard with implementing the International Convention for the Safety of Life at Sea. (SOLAS) [4] Authorization for the NCB is codified in 46 C.F.R. § 148.12 and 49 C.F.R. § 176.18. The MOU states that the Coast Guard recognizes NCB as a “technical expert that supports the Coast Guard with its container inspection responsibilities.”

Allocation of Responsibilities Under the MOU

The Coast Guard and NCB agree in the MOU to coordinate and share responsibilities of the inspections of hazardous cargo and container shipments. Specifically, the MOU provides as follows:

- (a) Coast Guard Captains of the Ports (COTP) shall coordinate hazardous cargo inspections with NCB offices operating in their area if possible.
- (b) The NCB agrees to share summaries of the container inspections—that are non-proprietary—with the COTP.

- (c) The COTP will “spot check” NCB’s verification of inspections of containers carrying hazardous cargo to ensure compliance with federal regulatory requirements;
- (d) The Coast Guard and NCB will establish regular meetings to share information and monitor trends.
- (e) The Coast Guard will monitor and inspect hazardous cargo and containers in accord with all federal laws and treaties.^[1]

Establishment of Local Working Agreements

The MOU contains a provision enabling and encouraging local working agreements between the NCB local office with the corresponding Coast Guard Area, District, or COTP. The working agreements should establish a protocol for inspections and outline to promote communications between the Coast Guard and NCB to coordinate their collective efforts.

^[1] MOU at page 2.

^[1] 46 U.S.C. § 70011 and 33 C.F.R. §160.109.

^[2] The regulations implementing ISCA are codified in 49 C.F.R. Parts 450 -453.

^[3] The regulations implementing FHMTL are codified in 49 C.F.R. Parts 107 – 180.

^[4] https://en.wikipedia.org/wiki/National_Cargo_Bureau. <https://natcargo.org/>

^[1]<https://www.news.uscg.mil/maritime-commons/Article/3780027/updated-memorandum-of-understanding-between-the-coast-guard-and-the-national-ca/>

^[2] Id.