

# PASSAGE PLAN

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## INTERNATIONAL ANNOUNCEMENTS

### MARPOL, ANNEX I REVISIONS

The IMO published guidelines for handling oily wastes in machinery spaces and incorporating guidance notes for an integrated bilge water treatment system (IBTS). The new guidelines are an update of those originally issued in 1990. Much has changed in the past sixteen years, most significantly of which are the enforcement initiatives of flag administrations and port state controls. The IBTS intends to provide a significant reduction in the generation of oily bilge water produced in machinery spaces. MEPC.1/Circ.511. In a directly related follow-up circular (MEPC.1/Circ.513), the IMO addressed the problem expected by entry into force on 1 January 2007 of the revised MARPOL Annex I on ships still carrying the IOPP Certificates issued under the previous Annex. The Circular provides that, unless documentation is required to be re-issued as a consequence of a ship having to comply with any new requirements, IOPPCs in effect at the time of entry into force of the revised MARPOL Annex I should be accepted until the expiry date shown on the Certificate.



### NEW MRCC HELPS CLOSE GAP IN INDIAN OCEAN SAR COVERAGE



A massive gap in the effective search and rescue coverage along the east coast of Africa and out into the Indian Ocean is to be filled with the inauguration of a new Maritime Rescue Coordination Center (MRCC) in Mombasa, Kenya. The regional search and rescue system that has been put in place is the result of a resolution adopted by the IMO Conference on search and rescue (SAR) and the Global Maritime Distress and Safety System (GMDSS), held in October 2000 in Florence, Italy, proposing the establishment of five sub regional MRCCs in western, southern, and eastern parts of Africa. A second MRCC under this initiative will be inaugurated in Cape Town, South Africa, before the end of 2006, while three more, in West Africa, are currently at the planning stage.

### TSA + USCG – MARITIME SECTOR IDENTIFICATION CREDENTIAL – PROPOSAL

The Transportation Security Administration (TSA) and the US Coast Guard issued their joint 68-page Notice of Proposed Rulemaking (NPRM) for implementation of the Transportation Worker Identification Credential (TWIC) in the maritime sector. Under the proposal, TSA would collect worker's biographic information (including but not limited to ten fingerprints, name, date of birth, address, telephone number, photo, employer, and job title). All individuals (including US merchant mariners) with unescorted access to secure areas of port facilities and vessels regulated under the Maritime Transportation Security Act would be required to have a TWIC. Background checks would include a review of criminal history records, terrorist watch lists, immigration status, and outstanding wants and warrants. The TWIC would utilize Smart Card technology and include the individual's photo, name, and biometric information. It will also include multiple fraud protection measures. The program is expected to cover 750,000 individuals and would be funded by user fees (estimated to be approximately \$139 per person). Port facilities and vessels would be required to implement TWIC into



their existing access control systems and operations, purchase and utilize card readers, plus update their approved security plans.

## **PORT STATE CONTROL**

### **ANOTHER CHIEF ENGINEER INDICTED FOR A FALSIFIED OIL RECORD BOOK**

United States Attorney for the Eastern District of Texas and the U.S. Department of Justice's Environment and Natural Resources Division, announced that the Chief Engineer of a foreign-flagged oil tanker was indicted in connection with concealing deliberate discharges of oil-contaminated bilge in the Gulf of Mexico from the *M/T Pacific Ruby*. Kun Yun Jho was charged with conspiracy, making false statements and violating the Act to Prevent Pollution from Ships for his alleged role in maintaining false Oil Record Books that concealed tampering with required pollution prevention equipment. According to the indictment, Jho, a Korean national, was employed as the Chief Engineer of the *M/T Pacific Ruby* between October 2004 and September 2005, during which time he allegedly used fresh water to trick the Oil Water Separator and Oil Content Meter. The tricking allegedly took place before and after the owners and operators of the ship installed the anti-tricking equipment in May 2005 that prevented the use of the fresh water system at the same time as an overboard discharge. It is alleged that a screwdriver was used to force open a valve that allowed fresh water to circumvent the anti-tricking device and flush the Oil Content Meter so that it was unable to register the actual oil content during overboard discharges. The indictment alleges that Jho presented a false Oil Record Book to the U. S. Coast Guard during an inspection in Port Neches in September 2005. The entries in the required log indicated proper use of the pollution prevention equipment during discharges of oil-contaminated bilge waste made in the Gulf of Mexico. If convicted, Jho faces up to five years in prison on each count of the indictment. It is important to note that an indictment is merely a charge and should not be considered as evidence of either guilt or innocence.



### **ELKHORN CORAL AND STAGHORN CORAL – ENDANGERED SPECIES**



The National Oceanic and Atmospheric Administration (NOAA) designated the elkhorn coral and the staghorn coral as threatened species under the Endangered Species Act. The rule comes into effect on June 8. As of that date, the damaging or "taking" of such coral, by any means including grounding or an oil spill, is a violation of federal law.

### **CHOICE OF LAW IN MARITIME CONTRACTS DISPUTE**

The US Court of Appeals for the Eleventh Circuit ruled that, under the facts of the case, Greek law should be applied to determine whether the claim of a Greek travel agency should prevail over a preferred maritime mortgage on a Greek-flag merchant ship. In the instant case, plaintiff bank held a preferred ship mortgage on the cruise ship, which operated out of Miami. When plaintiff foreclosed on the defaulted mortgage, many creditors files claims. Defendant Greek travel agency filed a claim for travel services, including airline tickets for crewmembers, which it provided to the owner, which was based in Greece. Under US law, the travel agency would have a claim for necessities that would prevail over the preferred ship mortgage. Under Greek law, the claim for necessities would not be entitled to a lien against the ship. The court held that the majority of the factors to be considered in resolving the choice of law issue favored application of Greek law. The court also determined that the US does not have a more significant relationship to the dispute than does Greece. *Dresdner Bank AG v. M/V Olympic Voyager*, No. 05-10862



## CONNECTICUT – MARINE SANITATION DEVICE DETERMINATION



The US Environmental Protection Agency (EPA) issued a Notice of Determination for all Connecticut waters between Eastern Point in Groton to Hoadley Point in Guilford and the navigable waters of the Hammonasset, Menunketesuck, Niantic, Thames, and Connecticut Rivers within the state. Vessels operating in these waters are prohibited from discharging sewage, whether treated or not. Rather, it has been determined that there are sufficient pump out facilities in the vicinity to accommodate such waste.

## **LEARNING OPPORTUNITES**

### PUBLIC COURSES

#### Port State Control – Preparation and Response

This two-day course is designed to help companies ensure that their management systems identify and address potential problems to help prevent vessels in their fleets encountering difficulties during port state control inspections. Understanding how port state control inspections relate to the ISM and ISPS Codes will help you diminish the likelihood of your ships being detained by the authorities. Through a highly participative combination of presentations, group discussions, case studies and syndicate exercises, you will learn about and understand: the background to port state control inspections, the different port state control Memorandum of Understanding (MOU) targeting and inspection policies, port state control links with the ISM and ISPS Codes, the port state control inspection/detention process and appeal procedure if the detention is considered unjustified, and port state control ISM and ISPS deficiency codes. In addition, you will gain knowledge of the transparency of the port state control MOU's reporting systems, the port state control's use of the ISM and ISPS Code checklist, the International Association of Classification Societies (IACS) initiatives to reduce port state control detentions, and flag administration initiatives to improve safety standards. Fort Lauderdale, USA: June 14-15, 2006.



#### Integrated Maritime Auditor (ISM & ISPS)

This three-day classroom course, which is a combined ISM Code familiarization, ISPS Code familiarization, and internal auditor course will help students develop a practical approach to the interpretation and application of the International Safety Management (ISM) Code and International Ship and Port Facility Security (ISPS) Code. It is a highly participatory combination of presentations, group discussions, and case studies, plus individual and syndicate exercises. The specific Safety Management System and Ship Security Plan requirements of various companies are incorporated into the course, along with the regulatory requirements of the flag administrations. Upon completion of this course, students will have the necessary theoretical knowledge to conduct simultaneous ISM Code and ISPS Code internal audits. Fort Lauderdale, Florida, USA: July 12-14, 2006.



#### Customized Course Offerings

In addition to the above public training courses, USMI offers a full catalog of subjects, including hazardous materials, security awareness, safety drills, and full company exercises. If you do not see the training event that is right for you, talk to us about your requirements -we can probably offer you a customized solution to meet your precise expectations. Your training event can be run in any location to suit you - in our offices, in your premises, or even onboard ship, anywhere you need it - the choice is yours.

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