

# PASSAGE PLAN

The International Newsletter of the US Maritime Institute

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## INTERNATIONAL ANNOUNCEMENTS

### DEFINITION(S) OF BULK CARRIER



The IMO issued a Circular advising of the predicament into which it has gotten with regard to the definition of bulk carrier. Recent amendments to SOLAS chapters II-1, III, and XII provide for a definition of bulk carrier differing from the existing definition contained in regulation IX/1.6. While this is being sorted out at IMO, the interpretation and application issues will be left to Flag Administrations. Port state control officials are urged to defer to such determinations. MSC.1/Circ.1199

### AMENDMENTS TO SOLAS AND SAR CONVENTIONS

The IMO issued a statement reminding governments and the maritime community that various recent amendments to the International Convention for the Safety of Life at Sea (SOLAS) and the International Convention on Maritime Search and Rescue (SAR) enter into force on 1 July. The SOLAS provisions relating to bulk carrier safety have been extensively revised. Among other things, most new bulk carriers must be constructed with double-side skin protection. Both the SOLAS and SAR conventions have been amended to clarify the responsibility of governments to assist the master of a ship that has rescued persons in distress at sea to deliver those persons to a place of safety ashore.



### PUBLICATIONS TO BE CARRIED ON BOARD

The IMO issued a Circular updating the list of publications required to be carried on board ships. Unfortunately, there are no deletions. MSC-MEPC.2/Circ.2

### US DISTRICT COURT STRIKES DOWN MASSACHUSETTS OIL SPILL PREVENTION LAW

The US District Court for the District of Massachusetts granted summary judgment to the federal government and issued a permanent injunction prohibiting the Commonwealth of Massachusetts from enforcing objectionable provisions of the state's recently enacted Oil Spill Prevention Act (OSPA). Specifically, the court struck down the OSPA provisions that would: (1) prohibit vessels with certain design characteristics from docking, loading, or unloading in Massachusetts waters; (2) set forth manning and navigation watch requirements for towing vessels and tank barges; (3) require vessels carrying oil in certain Massachusetts waters to "take on and employ" a Massachusetts licensed pilot; (4) require tank vessel owners and operators to implement alcohol and drug testing policies and procedures and to equip their vessels to carry out such testing; (5) mandate tugboat escorts for tank vessels traveling in certain waters of the Commonwealth; (6) require tank vessels to follow mandatory vessel routes through Massachusetts waters; and (7) require any vessel carrying oil in Massachusetts waters to present a certificate of financial assurance to the Massachusetts Department of Environmental Protection. In taking its action, the court noted that the merits of the policies behind the relevant federal and state requirements were not at issue. The issue before the court was whether federal law and regulation pre-empted the state from enforcing these specific provisions of state law. United States v. Massachusetts, No. 05-10112-JLT



## PORT STATE CONTROL

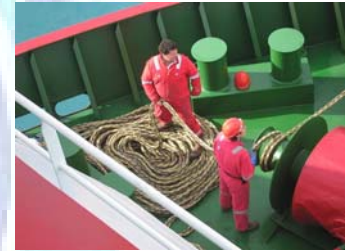
### [NORTH ATLANTIC RIGHT WHALES – SHIP SPEED RESTRICTIONS - PROPOSED](#)



The National Marine Fisheries Service (NMFS) proposes regulations to implement speed restrictions of ten knots or less on vessels of 65 feet (19.8 m) or greater in length in certain areas and at certain times of the year in waters of the North Atlantic Ocean along the east coast of the United States. The purpose of the proposed ship speed restrictions is to reduce the risk of collisions (ship strikes) with North Atlantic right whales – an endangered species. The restrictions would apply to designated waters off the southeast US during the period from November 15 through April 15; to ocean waters within 30 miles of the ports of New York/New Jersey, Delaware Bay, Chesapeake Bay, Morehead City/Beaufort, Wilmington, Georgetown, Charleston, Savannah and waters of Block Island Sound during the period from November 1 through April 30; and to designated waters off the northeast US. The northeast waters would consist of Cape Cod Bay (January 1 through May 15), Off Race Point (March 1 through April 30), and Great South Channel (April 1 through July 31). In addition, all ocean waters off the US east coast would be a dynamic management area (DMA) in which the NMFS could impose 15 nautical miles circles where the speed limit would apply. The DMA restrictions would apply when concentrations of right whales have been observed in that location. The regulations would not apply to foreign vessels engaged in innocent passage.

### [WHISTLEBLOWER RETALIATION JUDGMENT UPHELD](#)

In an 86-page decision addressing several issues, the US Court of Appeals for the Seventh Circuit upheld the trial court's decision that various US merchant mariners had been unlawfully discharged from employment after they reported alleged safety violations to the US Coast Guard. Defendant vessel owners and operators contended that the situation reported to the US Coast Guard, which involved a change in hiring guidelines, was not entitled to protection under the whistleblower statute. The court ruled, though, that the whistleblower protections are designed to encourage employees to aid in the enforcement of maritime laws and Coast Guard regulations by making claims through protected channels. Gaffney v. Riverboat Services of Indiana, Inc., No. 04-3829 (7th Cir., June 16, 2006).



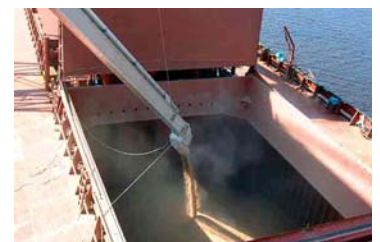
### [ACCESS BOARD – ACCESSIBILITY GUIDELINES FOR PASSENGER VESSELS](#)



The Architectural and Transportation Barriers Compliance Board (Access Board) released its revised draft passenger vessel accessibility guidelines. These guidelines (the document is about 200 pages in length) address accessibility to and in passenger vessels, which are permitted to carry more than 150 passengers or more than 49 overnight passengers. In addition, the draft addresses all ferries regardless of capacity and certain tenders, which carry 60 or more passengers.

### [CONVICTION UPHELD FOR DUMPING AT SEA](#)

The US Court of Appeals for the Eleventh Circuit upheld the conviction of the Chairman of a company that owned and operated a number of US-flag ships. The Chairman had been convicted of conspiring to violate US law and of knowingly discharging an oily mixture into the sea without utilizing an oil discharge monitoring system. The ship, a former tanker re-certified as a freight vessel, was being used to carry grain from the United States to Bangladesh. En route, diesel fuel leaked into the cargo spaces, contaminating some of the grain. Rather than paying to have the contaminated grain discharged ashore, the Chairman conspired with persons in the company headquarters and with various crewmembers to



dump the grain overboard while the ship was underway in international waters. Following his conviction, the Chairman appealed, asserting that the ship was not a freight vessel and that venue was not properly proven. On appeal, the court spent a lot of time discussing the niceties of venue. More importantly though, the court discussed differences between various regulations applicable to tankers as opposed to those applicable to non-tank vessels. United States v. Stickle, No. 05-12077 (11th Cir., July 6, 2006).

#### **INTOXICATED MASTER BANISHED FOR SIX MONTHS**

The US Attorney for the District of Oregon announced that the Master of a foreign vessel pleaded guilty to operating a motor vessel while under the influence of alcohol. He was sentenced to one-year probation, with the condition that he not return to the United States for six months without the permission of the Attorney General.

#### **SHIPPING COMPANIES & KEY PERSONNEL INDICTED FOR OWS/ORB VIOLATIONS**

The US Department of Justice stated that two foreign shipping companies and three individuals have been indicted for conspiracy to commit environmental crimes and obstructing US Coast Guard investigations. A fourth individual pleaded guilty to representing false information to the US Coast Guard. The indictment alleges that the companies and individuals engaged in a practice of using a by-pass pipe to avoid the oily water separator (OWS) and making false entries in the oil record book (ORB). The companies, which owned and operated the ship, each face criminal fines of up to \$2.5 million and five years probation. The individuals (the ship's first engineer, the technical superintendent, and the owner of the company that owns the ship) face varying potential sentences.



#### **LOST CONTAINERS RESULT IN \$3.25 MILLION PAYMENT**

The US Department of Justice announced that the owners and operators of a container ship have agreed to pay \$3.25 million to the United States Government to resolve allegations that 15 containers lost overboard in 2004 resulted in long-term damage to the Monterey Bay National Marine Sanctuary. The containers fell overboard in rough seas as the ship was transiting from San Francisco to Los Angeles. The Coast Guard reports that the containers were inappropriately loaded on the vessel. This development could signal the opening of a whole new front on the federal government's battle against marine pollution.



#### **UK – CERTIFICATES CANCELLED FOR THREE ENGINEERING OFFICERS**

The UK Maritime and Coastguard Agency (MCA) issued a notice stating that a court has cancelled the UK Certificates of Competency of three engineering officers for dishonest abuse of the examination system. Two individuals completed examination papers that were then passed off as another candidate's work.

#### **USCG – PORT OR PLACE OF DESTINATION FOR NOA PURPOSES**

The US Coast Guard issued a policy letter interpreting "port or place of destination" for purposes of the notice of arrival (NOA). A vessel moving within ports or places of a Captain of the Port (COTP) zone (i.e., a vessel carrying certain dangerous cargo – CDC), need only submit an NOA if actually moving from one port to another port. The port or place of destination should be the location where the vessel intends to moor or anchor, not the sea buoy or pilot station. If the COTP needs to know when the vessel will arrive at the sea buoy or pilot station, it may issue a COTP Order to that effect. G-PCV Policy Letter 06-05



## LEARNING OPPORTUNITES

### [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: October 25-27, 2006.

### [MARITIME ACCIDENT AND INCIDENT INVESTIGATION](#)

This two-day course provides participants with a thorough understanding of the causes and effects of loss using workshops and actual case studies. Emphasis is placed on pre-accident planning and preparation, evidence gathering, the methodologies of risk assessment, root cause analysis, and remedial actions necessary to prevent incident recurrence. Maritime Accident and Incident Investigation covers the skills needed to conduct systematic accident investigations, nonconformity analysis, and hazardous occurrence elimination. This course also addresses the investigation requirements outlined in the OCIMF's Tanker Management and Self Assessment (TMSA).



Fort Lauderdale, USA: November 15-16, 2006.

### [YACHT MANAGEMENT SERIES: ISM CODE, ISPS CODE, STCW CODE BASICS](#)

These series of courses are designed specifically for today's megayacht crews with a demanding schedule. Each training session is offered on board your vessel and geared specifically to your area of operation, flag of registry, and specific requirements of your manager's ISM and ISPS procedures.

Open Enrollment: Call to schedule.



### [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 will 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 or yacht, anywhere you need it - the choice is yours.



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