

PASSAGE PLAN

INTERNATIONAL ANNOUNCEMENTS

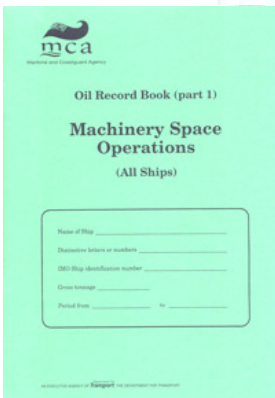
USCG – NEW OIL POLLUTION LIMITS ON LIABILITY

The US Coast Guard issued a notice announcing that recent legislation has increased the limits on liability for discharges and substantial threats of discharge of oil from vessels into waters of the United States. The existing Coast Guard regulations relating to the certificate of financial responsibility (COFR) will remain in effect until amended through rulemaking. Note: Ship owners and operators should be aware that, until the planned changes to the COFR regulations come into effect, there will be a difference between the maximum insurance required under the regulations and the maximum potential liability for oil spill costs and damages under the law. Owners and operators should consider acquiring insurance to cover at least the statutory maximum, not the lower regulatory COFR amount.



HIGH SEAS ENVIRONMENTAL VIOLATIONS NOT RELEVANT IN ORB SENTENCING

The US Court of Appeals for the Third Circuit ruled that discharges of oily waste by a foreign vessel on the high seas in violation of MARPOL may not be taken into consideration during the sentencing of a chief engineer for failing to properly maintain an oil record book (ORB) in violation of MARPOL and the Act to Prevent Pollution from Ships (APPS). In the instant case, the chief engineer made entries in the ORB while the ship was at sea that he knew did not include discharges that were in violation of MARPOL. The improper entries were discovered by the US Coast Guard while the ship was calling at a US port. The chief engineer was prosecuted and eventually pleaded guilty to violating APPS by failing to properly maintain the ORB. At sentencing, the court determined that his offense resulted in repeated discharges of oily waste in violation of the law and enhanced his sentence to include twelve months and one day in prison. On appeal, the court held that, while the discharge of oily waste on the high seas by a foreign ship may constitute a violation of MARPOL, it is not a violation of APPS. Thus, it was improper to consider such conduct during the sentencing of the chief engineer. The case was remanded to the trial court for re-sentencing. United States v. Abrogar, No. 06-1215 (3rd Cir., August 18, 2006).



MATERIAL MISREPRESENTATION RENDERS INSURANCE POLICY VOIDABLE

The US Court of Appeals for the First Circuit ruled that a material misrepresentation by the insured in the insurance application renders the subsequent marine insurance policy voidable by the insurer from the beginning. In the instant case, the insured, in his application, stated that the vessel was a lobster boat. The vessel was, rather, a gill-netter, as known to the insured, who was also the operator of the vessel. Gillnetting is more hazardous than lobstering and commands a higher insurance premium. The vessel was involved in a collision while returning from a gillnetting voyage and the injured parties filed claims. The insurer brought a declaratory judgment action, seeking to void the policy. The trial court ruled against the insurer, finding that the vessel was not engaged in fishing at the time of the collision. The appellate court reversed, holding that under admiralty law and state law, a material misrepresentation that would



influence a prudent insurer in determining whether to accept the risk renders the policy voidable as a matter of law. Commercial Union Insurance Co. v. Pesante, No. 05-2151 (1st Cir., August 9, 2006).

PORT STATE CONTROL

TSA + USCG = TWIC PROGRAM

The Transportation Security Administration (TSA) and the US Coast Guard issued a notice containing the body of a letter responding to several letters from Members of Congress relating to the Transportation Worker Identification Credential (TWIC) rulemaking. TSA has decided to not extend the comment period for the proposed rulemaking. Rather, it has decided to delete the requirement for facility and vessel owners and operators to purchase or install card readers during the first phase of the TWIC implementation. The requirement to purchase and install card readers will not be implemented until the public is afforded further opportunity to comment on that aspect of the TWIC program. Details of this approach will be explained in a future rulemaking. 71 Fed. Reg. 48527 (August 21, 2006). Additional information is provided in a Coast Guard press release, which states that the TWIC program has been divided into two separate regulatory projects. The requirement to obtain TWICs will continue to move forward through the original regulatory project, while other implementation provisions including the requirement to purchase and use TWIC readers will be moved to a new regulatory project.



WASHINGTON – CIVIL PENALTIES FOR POLLUTION

The Washington State Department of Ecology issued a document summarizing civil penalties it assessed during the second quarter of 2006 for pollution incidents. Among others on the list were three marine-related parties. Two of the penalties indicate the possibility that the Department has become too zealous in its mission. In June, the captain of the vessel Nu C was fined \$9,000 after approximately 575 gallons of diesel and hydraulic oil spilled into Grays Harbor when the vessel crashed into the North Jetty at Ocean Shores on February 12. In May, a tank barge owner was fined \$1,000 after its barge spilled 109 gallons of heavy fuel oil into the Strait of Georgia when it sustained damage from a tug during docking. [Separately, the owner of the tug was fined \$2,000 for the hard contact that resulted in the fuel oil spill.] Other than the two marine-related incidents cited above, the fines seem to have been assessed for acts of intentional or negligent violations. It is unclear why the agency seems to have singled out the maritime community for no-fault penalties.



FORMER MASTER PLEADS GUILTY TO ALCOHOL OFFENSE

The US Attorney for the Western District of Washington announced that the former master of a cruise ship operating out of Seattle pled guilty to operating the ship while under the influence of alcohol. The defendant was sentenced to pay a criminal fine of \$15,000, to serve one year of probation, and not to enter US waters as an employee of a commercial vessel for one year without approval of the Department of Homeland Security.

USCG – NATIONAL MARITIME CENTER OPENS OFFICE IN WEST VIRGINIA

The US Coast Guard announced that the National Maritime Center opened an office in West Virginia. The new office will centralize mariner licensing and documentation functions, with the Regional Examination Centers focusing on providing direct services to mariners, including fingerprinting, establishing identities, administering testing, and providing course oversight. Initially, the new office will evaluate and issue credentials for mariners applying through the New Orleans REC.

[EPA LAUNCHES MARITIME ARM](#)

The US Environmental Protection Agency (EPA) issued a news release stating that its new ocean survey vessel has commenced operation. The mission of the OSV BOLD is to monitor public health and environmental threats to oceans, bays, and coastal waterways.



[CALIFORNIA – AMENDMENTS TO CONTINGENCY PLAN REGULATIONS](#)

The California Office of Spill Prevention and Response (OSPR) has regulations under review that may result in significant changes to oil spill contingency planning for vessels calling at ports in California and for waterfront facilities located therein. The Notice of Proposed Rulemaking states that the proposed changes would implement a new approach in determining the required shoreline protection resources that must be available. The proposed Shoreline Protection Tables list numerous bodies of water, the required shoreline protection resources, and the time within which the resources are to be deployed.

[CBP + DOS – TRAVEL DOCUMENTS REQUIRED OF PERSONS ARRIVING AT SEAPORTS](#)

The Customs and Border Protection (CBP) and the Department of State (DOS) are jointly proposing that, beginning January 8, 2007, US citizens and nonimmigrant aliens from Canada, Bermuda, and Mexico entering the United States at airports and most seaports, with certain limited exceptions, will generally be required to present a valid passport. This proposal does not put forward a change to the requirements for US citizens and nonimmigrant aliens from Canada, Bermuda, and Mexico entering the United States at land borders and certain types of arrivals by sea (ferries and pleasure vessels), which will be addressed in a separate rulemaking.



[NEW ORLEANS – EXAM OF TOWBOATS FOR MTSA COMPLIANCE](#)

The US Coast Guard issued a Marine Safety Bulletin stating that it has commenced, within the COTP Zone New Orleans, a program of random unannounced examinations for uninspected towing vessels greater than eight meters in registered length for compliance with regulations implementing the Maritime Transportation Security Act (MTSA).



[OIL LEAK COVER-UP RESULTS IN \\$500,000 FINE](#)

The US Attorney for the Central District of California announced that a shipping company has pleaded guilty to obstruction of an US Coast Guard investigation and negligently discharging oil into US waters. The sea chest on one of the company's ships, anchored in the Port of Long Beach, leaked oil. The company hired a diver to fix the leak and directed the diver to not include in his report any mention of the leak. The company has agreed to pay a criminal fine of \$500,000 (with \$250,000 of that to be devoted to community service), pay restitution, implement a maritime compliance program, and serve three years probation.

[CALIFORNIA – ADVISORY RE AUXILIARY DIESEL ENGINES](#)



The California Air Resources Board (CARB) issued an advisory reminding owners and operators of ocean-going vessels calling a California ports that, effective January 1, 2007, new regulations are scheduled to come into effect regarding auxiliary diesel engines and diesel-electric engines on the ships. The regulations will require use of cleaner marine distillate fuels or equivalent emission controls. Note: The most controversial portion of the regulation provides that it apply to ships out to 24 miles off the coast of California. This provision may well be challenged.

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 24-26, 2006. ***Please note the slight change in dates.***

[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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