

Alerts & Publications

PDF



Recent Developments in Maritime Environmental Law

January 18, 2012

The fourth quarter of 2011 brought several new developments in the area of maritime environmental law, regulation, compliance and enforcement.

New Efforts to Address Vessel Air Emissions

In response to more stringent requirements proposed for air emissions from marine vessels, new and innovative approaches are being considered to lessen the impact of pollution from ships. Recent developments include the following:

- Mitsubishi Heavy Industries, Ltd. (“Mitsubishi”) is developing a new bulk carrier which reportedly will emit only 75% of the CO₂ emissions of conventional bulk carriers. Mitsubishi will provide the conceptual design and green technologies for three grain carriers to be built for Archer Daniels Midland Company. The ships will utilize a system of blowers that release air bubbles beneath the vessel bottom. The ships will also have a high-efficiency hull, an enhanced propulsion system, and a new bow shape that reduces wave resistance.
- Harvey Gulf International Marine will be building the first US-flagged liquefied natural gas (“LNG”) dual-fuel offshore supply vessels. The vessels will be capable of operating on LNG and diesel fuel, with LNG capacity for seven days (each of three engines running at full RPM). When running in LNG mode, it is estimated that nitrogen oxide (“NO_x”) emissions will be reduced by some 85% compared to diesel operation; sulfur oxide (“SO_x”) emissions are eliminated (since LNG contains no sulfur); and emissions of CO₂ are also lowered.

Major Fine Levied for Violation of Ship Pollution Law

The Ilios Shipping Co. S.A. pleaded guilty in federal court in New Orleans to charges it violated the national pollution oil laws and obstructed justice during an investigation. The Greek-owned Ilios operated the *M/V Agios Emilianos*, a bulk carrier ship that transported grain, including shipments from New Orleans. According to documents filed with the US District Court for the Eastern District of Louisiana, between 2009 and 2011 the ship routinely discharged oily bilge waste and sludge directly into the sea, violating the federal Act to Prevent Pollution from Ships. If approved by the court, the company will pay a \$2 million criminal fine.

EPA Begins Issuing Ballast Water Permits

The US Environmental Protection Agency (“EPA”) released a vessel draft permit that sets technology-based effluent standards for releases of ballast water from large commercial ships, tankers, and other vessels under authority of the Clean Water Act NPDES permit program. The effluent standards are applicable to ships 79 feet or longer, with smaller vessels utilizing a different permit that controls discharges by utilizing only best management practices. The EPA initially issued a vessel general permit in 2008, which applied only to larger ships, and which will expire on December 19, 2013. Public hearings are planned for this month and the comment period expires Feb. 21, 2012.

The EPA anticipates that the updated permit will reduce the administrative burden for vessel owners and operators, eliminating duplicative reporting requirements, clarifying that electronic recordkeeping may be used instead of paper records, and streamlining self-inspection requirements for vessels that are out of service for extended periods. The new general permit regulates the same 26 specific discharge categories that were contained in the 2008 permit. A new requirement includes management of fish-hold effluent.

A new provision of the proposed general permit controls the release of non-indigenous invasive species in ballast water discharges. The EPA has stated that the proposed limits are generally consistent with those contained in the International Maritime Organization’s 2004 Ballast Water Convention.

The Small Vessel General Permit specifies best management practices for several broad discharge management categories including fuel management, engine and oil control, solid and liquid maintenance, graywater management, fish-hold effluent management, and ballast water management. The permit is intended to go into effect at the conclusion of a current moratorium enacted by Congress that exempts all smaller vessels from having to obtain a permit until December 18, 2013, unless they have ballast water discharges.

Environmental Groups Sue EPA Over Ship Disposal Standards

The environmental groups Basel Action Network and Sierra Club filed a lawsuit in the US District Court for the Northern District of California to force

the EPA to adopt rules to prevent the release of polychlorinated biphenyls (PCBs) from the marine disposal of decommissioned military vessels. Specifically, the complaint attacks the US Navy's SINKEX program, where decommissioned ships were used for target practice and subsequently sunk at sea.

The groups had petitioned the EPA to initiate a rulemaking under the Toxic Substances Control Act to regulate the Navy's disposal of retired vessels. The EPA did not respond to the petition by the statutory deadline, triggering the filing of the complaint.

The environmental groups allege that ships built before 1985 often contain high levels of PCBs in insulation materials, cable insulation, motor and hydraulic oils, electrical equipment, fluorescent light ballasts, adhesives, tapes, and plastics. The EPA has linked PCBs to cancer in animals and has identified the chemicals as a probable human carcinogen. According to the complaint, PCBs are leaching into the ocean and entering the marine food chain.

Currently, the SINKEX program is regulated under a Marine Protection Research and Sanctuaries Act general permit that does not require the removal of "all solid PCBs," plaintiffs said in the complaint.

[Coast Guard Rule Allows Classification Societies to Certify Compliance with Anti-Fouling Ban](#)

The US Coast Guard is now allowing certain classification societies to certify on behalf of the Coast Guard that they have inspected ships pursuant to the 2001 International Convention on the Control of Harmful Anti-Fouling Systems on Ships. The convention is focused on reducing pollution caused by chemical compounds called organotins, which are used in antibacterial and antifungal hull treatments.

The Coast Guard is amending its vessel inspection regulations to add the International Anti-Fouling System (IAFS) certificate to the list of certificates that a recognized classification society may issue on behalf of the Coast Guard. The classification societies authorized to issue the certificates include the American Bureau of Shipping (ABS, United States), Det Norske Veritas (DNV, Norway), Lloyd's Register (LR, Great Britain), Germanischer Lloyd (GL, Germany), Bureau Veritas (BV, France), and RINA, S.p.A. (RINA, Italy).