

# CIRCULAR

Shipowners Claims Bureau, Inc., Manager  
60 Broad Street – 37th Floor  
New York, New York 10004 U.S.A.



FEBRUARY 9, 2006

CIRCULAR NO. 01/06

TO MEMBERS OF THE ASSOCIATION

Dear Member:

## INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS (MARPOL) 73/78: ADDITIONAL GUIDANCE ON OILY WATER SEPARATORS

### Background

On June 8, 2005 the Managers issued Club Circular 15/05 entitled *International Convention for the Prevention of Pollution from Ships 73/78 (MARPOL): Oily Water Separators*. This provided guidance to Members on the rules and policies of the Club in the handling of claims arising from events described in that Circular.

As will be seen, it was stated that other than in cases of purely accidental discharge, P&I cover for fines resulting from MARPOL violations are only available on a discretionary basis. In such cases, Members will be required to satisfy the Board that they took such steps as appear to the Board to have been reasonable to avoid the offence. In any event, Clubs do not cover any fines or other penalties imposed where an owner knew, or ought to have known, of the offence – or the circumstances in which an offence might arise – and failed to take reasonable measures to prevent it.

Since the issue of Circular 15/05, the Managers have been informed of a number of cases of alleged breach of these MARPOL regulations. Previous cases have entailed great difficulty and cost to shipowners and have resulted in the criminal prosecution of crew and owners alike. In addition, Port State Control authorities in the Tokyo MoU are stepping up their concentrated inspection scheme on oil filtering equipment during the period from February to April 2006.

This Circular provides additional guidance to Members on how to protect themselves from potential violations and what might be considered to be, as a minimum, reasonable measures to prevent such discharges. It is hoped that the implementation of these measures will also prevent or mitigate fines should Members be accused of such violations.

### Preventative measures by shipowners

From the Club's perspective, shipowners need to take all reasonable measures to develop a system to protect themselves from MARPOL violations. In regard to fines, P&I cover may be considered – **subject always to Board discretion as mentioned above** – if the Member has, **as a minimum**, implemented the following measures:

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1. The company should have a clear and direct written policy included in the documentation of the Safety Management System (SMS) stipulating that the illegal discharge of oily water will not be tolerated in any circumstances.
2. The company has a clear set of procedures for the shipboard use of the oily water separation system and the relevant manufacturer, maintenance and technical manuals to operate it.
3. The Master and engineering officers should be sufficiently trained to ensure that they understand company policy and associated procedures.
4. The Member should require that, for all vessels, an official log book entry should be made to record occasions of the instruction and training of shipboard personnel and the maintenance of the oily water separation system.
5. As a distinctive part of a vessel's SMS, there should be a clear set of procedures for action to be taken should the oily water separation system and/or associated systems (e.g. incinerator malfunction, overload of bilge tanks, 15 ppm alarm malfunction, etc.) not function correctly.
6. The company should ensure that the Master and Chief Engineer properly document all relevant information into the Oil Record Book (ORB) and that they are made to understand that any false entries or any other type of tampering with the records will not be tolerated. Members should appreciate that checks now being made by PSC of recorded tank soundings will reveal any anomalies between quantities entered and those actually pumped or transferred.
7. Any and all violations of the Member's SMS policy on oily water separation must be documented by the company.
8. Corrective action must be taken and documented by the Member if the SMS policy has been violated. These records must be retained by the Member.

### **USCG Guidance to Port State Control Officers**

On January 20, 2006, the US Coast Guard issued Policy Letter 06-01 entitled *Guidance for the Enforcement of MARPOL Annex I during Port State Control Examinations* to assist Port State Control officers in their inspections in order to ensure ships are complying with the provisions of MARPOL 73/78. The letter provides comprehensive information on inspections of oily water separation systems.

The Managers believe that it would be of value to Members to review this information and compare it with their SMS and maintenance procedures for their oily water separation systems. A complete copy of G-PCV Policy Letter 06-01 can be downloaded from the Internet at <http://www.uscg.mil/hq/g-m/moc/docs.htm>.

### **Tokyo MoU concentrated inspection campaign related to MARPOL Annex I**

On January 23, 2006, the Tokyo MoU Secretariat issued a circular announcing that their concentrated inspection campaign for 2006 will focus on violations of MARPOL Annex I. The campaign will be conducted between February and April 2006 in conjunction with the Paris MoU and will be directed at verifying whether oil filtering equipment is installed, maintained and operated appropriately and whether pollution prevention arrangements and procedures are properly followed on board ships.



The press release issued in consequence of this initiative notes 13 related matters of concern that Port State Control officers will check during their inspections. A complete copy of the Tokyo MoU press release can be downloaded from the Internet at <http://www.tokyo-mou.org/CIC%20press%20release.pdf>.

As always, the Managers will be pleased to respond to all enquiries arising from the above, and generally.

Yours faithfully,

A large, handwritten signature in black ink, which reads "Joseph E.M. Hughes". The signature is written in a cursive style and is positioned above a horizontal line.

Joseph E.M. Hughes, Chairman & CEO  
Shipowners Claims Bureau, Inc., Managers for  
**THE AMERICAN CLUB**