



## CMS NEWSLETTER

Ref: 01/11

February 12, 2011

### Developments of the Regulations

#### Outline

- ★ A sketch to illustrate the structure of the relevant regulations at different levels and their scope of application
- ★ The latest requirement of the new MOT Regulation effective on the 1<sup>st</sup> Feb. 2011
- ★ The regional provisions of Shanghai Port that the owners should be informed of
- ★ Further information will be provided if available.

#### Dear Sirs

#### **A sketch to illustrate the structure of the relevant regulations at different levels and their scope of application**

Please refer to the attached sketch for details.

#### **The latest requirement of the new MOT regulation effective on the 1<sup>st</sup> Feb. 2011**

As one of the important implementation rules for the *Regulations on Administration of the Prevention and Control of Marine Environment Pollution Caused by Vessels* (effective on 1<sup>st</sup> March, 2010), this new Regulation, named as *the Regulation on Administration of the Prevention and Control of Marine Environment Pollution caused by Ships and their Relevant Operations*, was formulated by the Ministry of Transport, and has come into effect nationwide since Feb. 1st, 2011.

Having carefully studied the Regulation and the relevant MSA Notice which has also been released recently, and could be deemed as an internal guidance for implementation within MSA, we would like to conclude the following points for owners' reference:



1. By using a local pollutant receiving company (hereinafter refer to contractor) to receive the ship's garbage, residue oil/sludge, oily waste water and waste water containing toxic and hazardous substance, the ship's operator is required to conclude an agreement with the contractor prior to the operation.
2. The signed agreement together with other documents is required to be submitted to MSA, in order for the contractor to acquire the permit of the operation.
3. After the operation of discharging and receiving the pollutants, the contractor shall issue the pollutants-receiving document to the ship, which needs to be signed by the master of the ship for confirmation.
4. By presentation of the pollutant-receiving document, the ship can apply for the certificate of pollutant reception to the MSA and keep the certificate onboard.
5. For the ships trading on international voyages, they are required to clean up the ship's pollutants before leaving PRC ports, and the certificate has to be presented to MSA for port clearance formalities. According to the MSA Notice, one valid certificate would be deemed as enough to serve the purpose, notwithstanding the ship may have called more than one PRC ports before leaving. In addition, for liners trading on voyages of less than one day, it may be allowed to present the certificate on a monthly basis with MSA's approval.
6. According to the MSA Notice, the "ship's operator" refers to the company who takes actual charge of ship's operation and management.

### **The regional requirements of Shanghai Port that the owners shall be informed of**

So far, there is only one regional provision - *Shanghai MSA's Interim Regulation of Reception of Ship Pollutants*, which has been put into effect since 1<sup>st</sup> Jan. 2011. It is understood that this regional provision is set up for the purpose of implementing the national regulations locally. So, in general both are consistent in principle. What requires special attention is the registration requirement. In the MOC regulation, there is no explicit



requirement for the contractors to get registered. But by the MSA Notice, local MSAs are authorized to set up the registration requirement by themselves. Accordingly, in the Shanghai regional provision, it requires the local contractors to apply for the registration yearly and the agreement concluded between the contractor and the ship's operator shall also be submitted for records. In the meantime, the relevant application procedures are simplified with the time of operation approval also shortened, For easy reference, the relevant provisions in respect of discharging and receiving the ship's pollutants have been summarized as follows:

1. When the ship discharging residual oil (sludge) and oily waste water in Shanghai Port, the ship's operator is required to conclude a contract with a registered contractor (namely those who has completed the formality of registration with the MSA). And the signed contract shall be submitted to MSA for records together with the list of ships by the contractor. If the ship's operator wants to change its contractor, he should conclude a new contract with a new contractor. It will come into effect in six months after MSA's examination and verification of the new contract submitted.
2. For the ship using registered contractors, the contractor can apply for the permit of operation via MSA online system within the following time frame:
  - i. 12 hours prior to the operation of discharging and receiving ship's residue oil, oily waste water, waste water containing toxic and hazardous substance,
  - ii. 2 hours prior to the operation of discharging and receiving ship's garbage,

**Further information will be provided if available**

We are in the continuous effort of collecting other local regulations if any. Further information will be provided whenever available.

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