



Maritime

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IN THIS ISSUE

Election Update....	Page 2
Temporary Blanket Jones Act Waiver for Relief from Impacts of Hurricane Sandy....	Page 2
MARAD Issued Updated Regulations Related to Seamen's, Admiralty Extension Act, and Admiralty Claims....	Page 2
Executive Order Bans Foreign Subsidiaries of U.S. Companies from Doing Business with Iran....	Page 2
Final Rule regarding Iranian Sanctions Regulations....	Page 3
Amendments to the Iranian Financial Sanctions Regulations....	Page 3
OFAC Issues Updated list of Specially Designated Nationals....	Page 3
FMC Rulemaking Update....	Page 3
Dynamic Positioning Operations Guidance for Vessels Other Than MODUs....	Page 4
U.S. Coast Guard Policy Letters Address Standards of Training, Certification, and Watchkeeping....	Page 4
U.S. Coast Guard - Operation Right Speed....	Page 4
TSA Issues Notice Regarding Request for Extended Expiration Date TWIC Card....	Page 4
U.S. and Canada Launched Prince Rupert Pilot Program....	Page 5
Maritime Bankruptcy Update....	Page 5

This Monthly Maritime Report covers maritime issues affecting international shipping. Maritime environmental issues are covered in our Monthly Maritime Environmental Report.

This report is intended to provide general information and should not be relied upon as legal advice. For more information about any of the matters discussed, please contact us.

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Election Update:

Attached to the November 2012 Monthly Maritime Report is a three page document providing the highlights of the U.S. election results.

Department of Homeland Security Update:

➤ **Temporary Blanket Jones Act Waiver for Relief from Impacts of Hurricane Sandy**

As previously reported on November 2 and 5, 2012, as a result of impacts caused by Hurricane Sandy, Secretary of Homeland Security Janet Napolitano issued a temporary, blanket [waiver of the Jones Act](#) to allow foreign-flag tankers coming from the Gulf of Mexico to deliver petroleum products to Mid-Atlantic and Northeastern ports to provide additional fuel resources to the region. The waiver is in effect through November 13 and ships may deliver cargo until November 20. On November 3, the Jones Act waiver was [expanded](#) to include feedstocks, blending components, and additives used to produce fuels.

The Maritime Administration (“MARAD”) published [guidance](#) on reporting requirements for the Jones Act waiver.

MARAD Update:

➤ **Updated Regulations Related to Seamen’s, Admiralty Extension Act, and Admiralty Claims**

The Maritime Administration (“MARAD”) issued a final rule updating its regulations relating to seamen’s claims, Admiralty Extension Act claims, and admiralty claims. The updated rules come into effect on November 29, 2012. [77 Fed. Reg. 65631](#).

Iran Sanctions:

➤ **U.S. Bans Foreign Subsidiaries of U.S. Companies from Doing Business with Iran**

On October 9, 2012, the president issued an [Executive Order](#) implementing sanctions set forth in the Iran Threat Reduction and Syria Human Rights Act of 2012, which bars foreign subsidiaries of U.S. companies from engaging in most transactions with Iran and making the U.S. parent companies liable for violations by their foreign subsidiaries. Prior to October 9, such foreign subsidiaries were subject to extraterritorial U.S. sanctions that applied to transactions relating to Iran’s petroleum and with certain barred entities, but not to the broad U.S. sanctions on Iran that apply to U.S. entities. However, the U.S. parent and U.S. citizens, wherever located, were and are prohibited from facilitating transactions with Iran that they cannot enter into directly.



➤ **Final Rule regarding Iranian Sanctions Regulations**

As previously reported on October 22, 2012, the Office of Foreign Assets Control (“OFAC”) published a [final rule](#) on October 22, 2012 reissuing the Iranian Transactions Regulations (“ITR”) in their entirety and changing the heading of the regulations to the Iranian Transactions and Sanctions Regulations (“ITSR”). The ITR, located at 31 C.F.R. Part 560, were created to implement a series of Executive Orders addressing various transactions with Iran. The ITSR updates the ITR to implement relevant sections of the National Defense Authorization Act for Fiscal Year 2012 (“NDAA”) and Executive Order 13599, titled “Blocking Property of the Government of Iran and Iranian Financial Institutions” issued February 5, 2012 under the authority of the NDAA. OFAC also revised the general licenses and incorporated its statement of licensing policy, which had previously appeared only on OFAC’s website. The ITSR are effective immediately.

➤ **Amendments to the Iranian Financial Sanctions Regulations**

On November 8, 2012, OFAC promulgated amendments to the Iranian Financial Sanctions Regulations to implement provisions in the Iran Threat Reduction and Syria Human Rights Act of 2012. The amendments expand the categories of sanctionable activities and expand application of the regulations to a foreign financial institution that the Secretary of the Treasury finds: (1) knowingly facilitates or participates or assists in a prohibited activity; (2) attempts or conspires to facilitate or participate in such an activity; or (3) is owned or controlled by a foreign financial institution that the Secretary finds knowingly engages in such activity. The amendments come into effect immediately. [77 Fed. Reg. 66918](#).

➤ **OFAC Issues Updated list of Specially Designated Nationals**

On November 8, 2012, OFAC [updated](#) its list of Specially Designated Nationals (“SDNs”) subject to the U.S. economic sanctions with respect to Iran. Included on the list are the National Iranian Oil Company (“NIOC”), the Islamic Republic of Iran Shipping Lines (“IRISL”), and a variety of maritime entities.

Federal Maritime Commission Update:

➤ **FMC Rulemaking Update**

The Federal Maritime Commission (“FMC”) issued a correction to its recent rulemaking updating the agency’s rules of practice and procedure. The revised rules come into effect on November 12, 2012. [77 Fed. Reg. 64758](#).



➤ **FMC Rulemaking Update**

The FMC is revising its rules of practice and procedure to update and clarify the rules and to reduce the burden on parties to proceedings before the Commission. The changes come into effect on November 12, 2012. [77 Fed. Reg. 61519](#).

U.S. Coast Guard Update:

➤ **Dynamic Positioning Operations Guidance for Vessels Other Than MODUs**

As previously reported on October 17, 2012, the U.S. Coast Guard issued a Notice of Recommended Interim Voluntary Guidance on October 12, 2012 recommending that owners and operators of all vessels other than Mobile Offshore Drilling Units (“MODUs”) conducting Outer Continental Shelf (“OCS”) activities on the U.S. OCS follow applicable Marine Technology Society Dynamic Positioning (“DP”) guidance. The Coast Guard intends to publish a rule addressing minimum DP design and operating standards for all vessels conducting OCS activities using DP on the U.S. OCS. [77 Fed. Reg. 62247](#).

➤ **U.S. Coast Guard Policy Letters Address Standards of Training, Certification, and Watchkeeping**

The U.S. Coast Guard [announced](#) the availability of three policy letters which provide guidance on compliance with the 2010 amendments to the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers (“STCW”). The letters address hours of rest requirements, issuance of endorsements and approval of training for Vessel Personnel with Designated Security Duties, and issuance of other endorsements and approval of other training.

➤ **U.S. Coast Guard - Operation Right Speed**

The U.S. Coast Guard issued a [news release](#) reminding vessel operators that Operation Right Speed is in effect during the annual North Atlantic right whale migration in mid-Atlantic waters from November 1, 2012 through April 30, 2013. NOAA [navigational charts](#) identify the right whale seasonal management areas. It is critical to comply with the speed restrictions because NOAA is aggressively enforcing these regulations.

Miscellaneous:

➤ **TSA Issues Notice Regarding Request for Extended Expiration Date TWIC card**

The Transportation Security Administration (“TSA”) posted a [notice](#) stating: “Due to the large number of transportation workers requesting extended expiration date (“EED”) TWICs, TSA requests that you order an EED TWIC no sooner than 4 months prior to your current



TWIC expiration date. If your card expires within 4 months and you would like to order an EED TWIC, please call the TWIC Help Desk at 1-866-DHS-TWIC (1-866-347-8942)."

➤ **U.S. and Canada launched Prince Rupert Pilot Program**

The Canada Border Services Agency ("CBSA") issued a [news release](#) stating that the United States and Canada have launched the Prince Rupert pilot program to strengthen maritime cargo security. It is based on a harmonized approach that allows for screening of inbound cargo arriving from offshore. As a result, there is increased security and the expedited movement of secure cargo across the common border under the principle of "cleared once, accepted twice". The U.S. Customs and Border Protection ("CBP") issued a similar [news release](#) stating that the pilot program focuses on maritime cargo arriving at Prince Rupert with subsequent movement via rail before entering the U.S. at International Falls, Minnesota.

Maritime Bankruptcy:

➤ **[Overseas Shipholding Group considers Chapter 11 bankruptcy](#)**

Overseas Shipholding Group, Inc. ("OSG") said it was evaluating options including filing for bankruptcy protection in light of a recently disclosed tax issue that arises from the fact that the company is domiciled in the U.S. and has substantial international operations, and relates to the interpretation of certain provisions in its loan agreements.

After OSG announced it was considering filing for Chapter 11 bankruptcy protection, a class action was filed on behalf of all persons who purchased or otherwise acquired the securities of Overseas Shipholding Group Inc. between March 1, 2010 and October 19, 2012, inclusive, who allege that defendants made false and misleading statements regarding the company's tax position, financing, and the resulting impact on its publicly reported financial results to the investing public as part of a scheme to artificially inflate the value of Overseas Shipholding's common stock. See *In Priya Vijayan v. Overseas Shipholding Group Inc., et al* (12 cv 8043) and *Porzio v. Overseas Shipholding Group, Inc. et al* (12 cv 07948).