

Headlines: USCG & EPA – temporary suspension of response time requirements; National Commission – meetings; COAC – meeting; CBP – quarterly interest rates; DOC OIG – review of NOAA MOC-P relocation process; Court – zone of danger and negligent infliction of emotional distress; and Hong Kong – dredging in Kowloon Bay.

June 30, 2010



Bryant's Maritime News

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Note: This newsletter is one section of the [Bryant's Maritime Consulting](http://brymar-consulting.com) website. Visit the site for more extensive maritime regulatory information. Individual concerns may be addressed by retaining [Dennis Bryant](mailto:dennis.l.bryant@gmail.com) directly. Much of the highlighted text in this newsletter constitutes links to Internet sites providing more detailed information. Links on this page may be in PDF format, requiring use of Adobe Acrobat Reader. Comments on these postings are encouraged and may be made by email to the editor or by going to the blog page on the website and clicking the envelope that appears at the end of each posting. Be aware that the daily newsletter is a single posting, even though it contains a number of individual items. Bringing chaos out of order.

USCG & EPA – temporary suspension of response time requirements



The US Coast Guard and the Environmental Protection Agency (EPA) issued an emergency temporary interim rule suspending oil spill response plan requirements for facilities and vessels whose response resources are relocated in support of the Deepwater Horizon spill of national significance (SONS) response. The rule will remain in effect through December 31, 2010. Comments on the rule should be submitted by August 16. [75 Fed. Reg. 37712](#) (June 30, 2010). *Note: As Vice President Biden would say, this is a big ****ing deal because it will make available oil spill response personnel and equipment currently being held in reserve around the country due to routine contractual and regulatory commitments.*

National Commission – meetings



The National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, sponsored by the DOE Office of Fossil Energy, will meet in New Orleans on July 12 and 13. [75 Fed. Reg. 37783](#) (June 30, 2010).

COAC – meeting



The Advisory Committee on Commercial Operations of Customs and Border Protection (COAC), sponsored by the US Customs and Border Protection (CBP), will meet in Detroit on August 4. Topics on the agenda include trade facilitation, importer security filing (“10+2”), and global supply chain security. [75 Fed. Reg. 37823](#) (June 30, 2010).

CBP – quarterly interest rates



The US Customs and Border Protection (CBP) issued a notice stating that, for the calendar quarter beginning July 1, 2010, the interest rates for overpayments will be 3% for corporations and 4% for non-corporations and the interest rate for underpayments will be 4%. [75 Fed. Reg. 37823](#) (June 30, 2010).

DOC OIG – review of NOAA MOC-P relocation process



The Department of Commerce (DOC) Office of the Inspector General (OIG) released its [report](#) on the National Oceanic and Atmospheric Administration (NOAA) decision to award a lease to the Port of Newport, Oregon for facilities to house NOAA’s Marine Operations Center-Pacific (MOC-P). The report concludes that there were errors and weaknesses in NOAA’s competitive lease acquisition source selection, but that the outcome of the competition is unlikely to have changed in the absence of those flaws. (6/28/10).

Court – zone of danger and negligent infliction of emotional distress



The US Court of Appeals for the Ninth Circuit ruled that a mariner who has been endangered, but not physically injured, by the negligence of another may have a cause of action against that party for negligent infliction of emotional distress where the negligent party has severely injured or killed a third party, even though the plaintiff did not witness the incident. In the instant case, plaintiff commercial fisherman was part of a covey of fishing vessels trolling for salmon in the fog off Point Reyes, California. A merchant vessel transited through the same waters. It came very close to, but did not make contact with, the plaintiff’s fishing vessel. Shortly thereafter, the merchant vessel collided with another fishing vessel, the captain of which was killed as a result of the collision. For purposes of this appellate decision, it is assumed that the merchant vessel was operated in a negligent manner. Plaintiff did not witness the collision, but filed suit against the owners of the merchant vessel, alleging that the incident put him in grave and imminent risk of death or great bodily harm, impacting him emotionally so that he could not work and needed psychiatric help. Defendant moved to dismiss the complaint for failure to state a cause of action. The federal district court granted the motion and plaintiff appealed. Over a strong dissent, the appellate court reversed the judgment and remanded the case, holding that

there is no requirement that a plaintiff actually witness the incident, so long as he or she was within the zone of danger created by the conduct of the defendant. *Stacy v. Rederiet Otto Danielsen, A.S.*, No. 09-15579 (9th Cir., June 29, 2010).

Hong Kong – dredging in Kowloon Bay



The Hong Kong Marine Department issued a notice stating that, with immediate effect and for a period of approximately three months, dredging operations will be carried out in a designated area in Kowloon Bay. Vessels navigating in the vicinity should proceed with caution. **Notice 92-2010** (6/28/10).

If you have questions regarding the above items, please contact the editor:

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