

**Headlines:** NIC – update on Gulf of Mexico oil spill response; EPA – clean diesel grant for Port of Pittsburgh; EPA – grants awarded to spur clean diesel technologies; Mississippi River – update on pollution incident; Barataria Bay – update on wellhead allision; St. Lawrence Seaway – increase in permissible draft; James River – temporary safety zone; Northwest Pacific Ocean – incidental takes of marine mammals; House – bill on oil spill accountability reported out of committee; Senate – bill re oil company accountability; House – hearing on impact of the oil spill on tourism; Senate – hearing on natural resource damage assessment; Senate – hearing on the drilling moratorium; Senate – bill introduced to enhance maritime transportation security; Senate – bill introduced to reform management of OCS; House – bill introduced re oil and gas leases; Senate – bill introduced to reauthorize port security programs; Court – Wreck Act interpreted; Court – insurer not obligated to defend where notification is untimely; English Channel – yacht sailing through with no lookout; and UK DfT – TRANSEC Expo 2010.

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## Bryant's Maritime News

Bryant's Maritime Consulting - 4845 SW 91<sup>st</sup> Way - Gainesville, FL 32608-8135 - USA

Tel: 1-352-692-5493 – Email: [dennis.l.bryant@gmail.com](mailto:dennis.l.bryant@gmail.com) – Internet: <http://brymar-consulting.com>

*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. Exposure to this newsletter has been known to cause cancer in mice.*

### NIC – update on Gulf of Mexico oil spill response



The National Incident Commander (NIC) issued a [news release](#) containing a transcript of the press conference by Admiral Thad Allen (ret) and Rear Admiral Paul Zukunft (Federal On-Scene Coordinator). The static kill and relief well efforts are proceeding on schedule. As the amount of recoverable oil decreases, a boom recovery strategy is being developed. (7/28/10).

## EPA – clean diesel grant for Port of Pittsburgh



The Environmental Protection Agency (EPA) issued a **news release** stating that it awarded a \$1.1 million grant to the Port of Pittsburgh Commission to oversee extensive repowering of four marine towing vessels with new, more efficient diesel engines and generators that will reduce air pollution, improve air quality, and lessen overall environmental impacts. (7/28/10).

## EPA – grants awarded to spur clean diesel technologies



The Environmental Protection Agency (EPA) issued a **news release** stating that it awarded grants totaling \$5.6 million for emerging technologies projects for clean diesel engines. Among those receiving grants were the City of Los Angeles Harbor Department for a hybrid crane, the Puget Sound Clean Air Agency for a seawater scrubber to remove pollution from large ship engines, and the South Coast Air Quality Management District for an exhaust capturing mechanism used on a variety of ships while in port. (7/22/10). *Note: I was gently reminded of this item by my good friend Helen Brohl of the Committee on the Marine Transportation System.*

## Mississippi River – update on pollution incident



The US Coast Guard issued a **news release** stating that lightering of the remaining acrylonitrile from the damaged barge at mile marker 775.5 on the Mississippi River has commenced. One-way traffic has been authorized through the area. The incident is under investigation. (7/28/10).

## Barataria Bay – update on wellhead allision



The US Coast Guard issued a **news release** stating that oil and gas continue to discharge from the wellhead in Barataria Bay that was hit by a tug and barge. Response efforts are underway. The incident is under investigation. (7/28/10).

## St. Lawrence Seaway – increase in permissible draft



The Great Lakes-St. Lawrence Seaway System issued a notice stating that the maximum permissible draft in the Montreal-Lake Ontario section has been increased to 80.8 dm (26'-6") for all vessels. **Notice No. 10-2010** (7/23/10).

## James River – temporary safety zone



The US Coast Guard is establishing a temporary safety zone on waters of the James River encompassing the M/V Del Monte in the James River Reserve Fleet during the period August 2 through August 6 to protect mariners from

hazards associated with live fire and explosive training events. 75 Fed. Reg. 44720 (July 29, 2010).

### **Northwest Pacific Ocean – incidental takes of marine mammals**



The National Oceanic and Atmospheric Administration (NOAA) issued a notice stating that it issued an Incidental Harassment Authorization (IHA) to Lamont-Doherty Earth Observatory to take small numbers of marine mammals by harassment incidental to conducting a marine geophysical survey at the Shatsky Ridge in the northwest Pacific Ocean during the period July through September 2010. 75 Fed. Reg. 44770 (July 29, 2010).

### **House – bill on oil spill accountability reported out of committee**



The House Committee on Transportation and Infrastructure, with concurrence from the Committees on the Judiciary and Natural Resources, reported out an amended version of the **Oil Spill Accountability and Environmental Protection Act of 2010** (H.R. 5629) to ensure full recovery from responsible parties of damages for physical and economic injuries, adverse effects on the environment, and clean up of oil spill pollution, to improve the safety of vessels and pipelines supporting offshore oil drilling, to ensure that there are adequate response plans to prevent environmental damage from oil spills, and for other purposes. If enacted into law, this measure would, among other things, remove the limitation of liability for oil spill damages from offshore facilities, require offshore facilities to provide evidence of financial responsibility in the amount of \$1.5 billion, and repeal the majority of the Limitation of Liability Act of 1851. The measure now goes to the House floor for consideration. (7/27/10).

### **Senate – bill re oil company accountability**



Senator Reid (D-NV) is introducing the **Clean Energy Jobs and Oil Company Accountability Act of 2010** (S. \_\_\_\_\_) to promote clean energy and oil accountability and for other purposes. This bill, if enacted into law, would remove the limits of liability for offshore facilities, increase the limits of liability for vessels, enhance response planning requirements, and amend the 1851 Limitation of Liability Act, among other things. In addition, the Oil Spill Liability Trust Fund levy would be increased to 45 cents per barrel of oil. (7/28/10).

*Note: It is expected that this comprehensive bill will be fast-tracked through the Senate. Once adopted by the Senate, a Conference Committee will be formed to reconcile this bill with the comprehensive bill being adopted by the House (see above). It is possible, but unlikely, that a compromise bill will be adopted by Congress before it departs on August 9 for a period of four weeks.*

## House – hearing on the impact of the oil spill on tourism



The Subcommittee on Commerce, Trade, and Consumer Protection of the House Committee on Energy and Commerce conducted a hearing on **The BP Oil Spill and Gulf Coast Tourism: Assessing the Impact**. Testimony was heard from the usual suspects, including Mr. Kenneth Feinberg, Administrator, Gulf Coast Claims Facility. (7/27/10). *Note: One wonders how Mr. Feinberg can accomplish his important work if he is continually called to Washington to once again explain how he intends to accomplish his important work.*

## Senate – hearing on natural resource damage assessment



The Subcommittee on Water and Wildlife of the Senate Committee on Environment and Public Works conducted a hearing on **Assessing Natural Resource Damages Resulting from the BP Deepwater Horizon Disaster**. Testimony was heard from the usual suspects. (7/27/10).

## Senate – hearing on the drilling moratorium



The Senate Committee on Small Business and Entrepreneurship conducted a hearing on **The Deepwater Drilling Moratorium: A Second Economic Disaster for Small Businesses?** Testimony of the various witnesses is available at the above link. (7/27/10).

## Senate – bill introduced to enhance maritime transportation security



Senator Rockefeller (D-WV) introduced the **Maritime Transportation Security Act of 2010** (S. 3639) to provide for greater maritime transportation security, and for other purposes. (7/22/10).

## Senate – bill introduced to reform management of OCS



Senator McConnell (R-KY) introduced the **Oil Spill Response Improvement Act of 2010** (S. 3643) to amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, to improve oil spill compensation, to terminate the moratorium on deepwater drilling, and for other purposes. (7/22/10).

## House – bill introduced re oil and gas leases



Representative Hall (D-NY) introduced a bill (H.R. 5868) to amend the Outer Continental Shelf Lands Act to establish conditions for the issuance of oil and gas leases under that Act to prevent discharges of oil in operations under

such leases, and for other purposes. Official text of the bill is not yet available. (7/27/10).

### Senate – bill introduced to reauthorize port security programs



Senator Collins (R-ME) introduced a bill (S. 3659) to reauthorize certain port security programs, and for other purposes. Official text of the bill is not yet available. (7/27/10).

### Court – Wreck Act interpreted



The US Court of Appeals for the Fifth Circuit ruled that a vessel owner is obligated to remove the wreck of its vessel from navigable waters, even in the absence of a removal order from the government. The court also interpreted the provisions of a marine insurance policy that includes coverage for wreck removal. **Danos Marine v. Certain P&I Underwriters**, No. 09-30378 (5th Cir., July 28, 2010).

### Court – insurer not obligated to defend when notification is untimely



In an unpublished decision, the US Court of Appeals for the Second Circuit ruled that a marine insurer is not obligated to defend and indemnify its insured where the insured failed to timely notify the insurer of two lawsuits arising out of a damaged shipment of drywall and related delays, even though the insured did provide timely notice of the occurrence giving rise to the lawsuits. **Pactrans Air & Seas v. New York Marine and General Insurance Co.**, No. 09-4332-cv (2nd Cir., July 21, 2010). *Note: This case was brought to my attention by my good friend Michael Marks Cohen of Nicoletti Hornig & Sweeney.*

### English Channel – yacht sailing through with no lookout



The UK Maritime and Coastguard Agency (MCA) issued a **press notice** stating that it sent a helicopter out to investigate the report of a yacht sailing through the English Channel with no lookout. The lone person on board reported that he was sailing from Portland, Dorset to the Azores and had gone below to effect repairs. He was told of the inadvisability of effectively sailing blind through the busiest shipping lane in the world. (7/28/10).

### UK DfT – TRANSEC Expo 2010



The Transport Security Expo and Conference (**TRANSEC Expo 2010**), sponsored by the UK Department for Transport (DfT), will be held in London on 14-15 September. Among other things, the NATO Shipping Centre will host a “tactical floor” exercise addressing various scenarios on maritime piracy. (7/28/10).

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

**Dennis L. Bryant**

Bryant's Maritime Consulting  
4845 SW 91<sup>st</sup> Way  
Gainesville, FL 32608-8135  
USA

1-352-692-5493  
[dennis.l.bryant@gmail.com](mailto:dennis.l.bryant@gmail.com)  
<http://brymar-consulting.com>

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