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**NEWS**

**USA: New Massachusetts Oil Spill Act**

The State of Massachusetts has recently enacted a new law in respect of pollution in Massachusetts waters.

The new act, entitled An Act Relative To Oil Spill Prevention And Response In Buzzards Bay And Other Harbours And Bays Of The Commonwealth (the Act) was signed on 4 August 2004 and has immediate effect.

We have been advised by attorneys LeBoeuf, Lamb, Greene & MacRae that the main provisions of the Act are as follows:

Vessels entering state waters for the purpose of transporting ,discharging or receiving a cargo of oil, hazardous material or hazardous waste will now need to establish financial security in the amount of US\$1 billion, although discretionary exceptions may be made in certain circumstances. These may include double hulled vessels and those with a good safety record. Vessels with a capacity of under 6,000 barrels must have financial assurance certification for US\$5 Million.

It is expected that the financial security provisions will follow the Californian model in which case production of a P&I Certificate of Entry from an International Group Cub is likely to be an acceptable method of meeting the requirements of the new Act.

Any person responsible for discharging pollutants into state waters will face a civil penalty of up to US\$50,000 per day. Further civil penalties of up to US\$10,000 or US\$25,000 respectively per day may be imposed for violation of new alcohol /drug testing and travel route requirements. In addition, the Act introduces graduated civil and criminal penalties for deliberate or reckless pollution.

Other provisions include the implementation of a new vessel traffic system in Buzzards Bay and other areas and it will be compulsory for vessels to sail on recommended routes. In "areas of special interest" vessels may require a tugboat escort.

The State will also levy a two cent per barrel fee on oil receipts to establish a US\$10 million pollution fund.

The Massachusetts Department of Environmental Protection has recently issued the attached fact sheet which highlights the most important provisions of the new act. Although the validity of a Club Entry Certificate as a means of establishing financial security has not been formally confirmed, members intending to enter or transit Massachusetts waters should send a copy of the vessel's Certificate of Entry plus a copy of the oil pollution limitation of cover clause set out on pages 85 and 86 of the current Club P&I (Class 1) Rule Book to Mr. William Harkins at the Massachusetts Department of Environmental Protection (DEP) at the address set out on the first page of the attached fact sheet. A copy of the Certificate of Entry and the letter sent to the DEP should be kept on board the vessel.

Please contact the Managers if any further information is required.

**P E Spendlove**  
Managing Director