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15 IN THE UNITED STATES DISTRICT COURT  
 16 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 17 SAN FRANCISCO DIVISION

18 UNITED STATES OF AMERICA;  
 PEOPLE OF THE STATE OF CALIFORNIA )  
 19 and PEOPLE OF THE STATE OF )  
 CALIFORNIA *ex rel.* DEPARTMENT OF )  
 20 FISH & GAME, DEPARTMENT OF PARKS )  
 & RECREATION, STATE LANDS )  
 21 COMMISSION, and REGIONAL WATER )  
 22 QUALITY CONTROL BOARD FOR THE )  
 SAN FRANCISCO BAY REGION. )

23 Plaintiffs, )

24 v. )

25 PEARL SHIPPING CORPORATION and )  
 26 ANAX INTERNATIONAL AGENCIES, )  
 INC., )

27 Defendants. )  
 28

Consent Decree

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 OFFICE OF GENERAL COUNSEL

CIVIL ACTION NO. 99-CV-04359

CONSENT DECREE

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26  
27  
28



1 discharged bunker fuel into and upon the navigable waters, adjoining shorelines, and exclusive  
2 economic zone of the United States, with direct effect upon same, including the waters outside San  
3 Francisco Bay and in the Gulf of Farallones and Monterey Bay National Marine Sanctuaries ("the  
4 Ocean Spill").

5 C. On September 27, 1998, an oil slick was observed in the Southern Ship Traffic  
6 Lane, outside the mouth of the San Francisco Bay. In the days that followed, the oil slick  
7 dispersed in the ocean waters off the coast south of the Golden Gate, where it oiled numerous  
8 seabirds, resulting in lethal and sublethal injuries. Some of the oil subsequently washed ashore  
9 on beaches in San Mateo County, California, in the form of tarballs.

10 D. Commencing on or about September 28, 1999, following reports of the Ocean Spill  
11 by persons other than the defendants, the U.S. Coast Guard and the California Department of Fish  
12 and Game, Office of Spill Prevention and Response ("OSPR") initiated clean-up activities in  
13 response to the Ocean Spill. As part of its cleanup and response activities, the U.S. Coast Guard  
14 deployed a 378-foot Coast Guard Cutter (USCG BOUTWELL), aircraft, small boats and other  
15 equipment, and numerous personnel, and retained the services of private contractor personnel and  
16 equipment who were mobilized in response to the Ocean Spill. Wildlife operations were carried  
17 out by OSPR, with the assistance of other state and federal agencies.

18 E. The involved federal and state agencies believe the Ocean Spill impacted thousands  
19 of seabirds, including a number of California brown pelicans, which are listed as an Endangered  
20 Species under Section 4(c) of the Endangered Species Act ("ESA"), 16 U.S.C. § 1533(c), and the  
21 California Endangered Species Act, Fish & Game Code §§ 2050, *et seq.*

22 F. In addition to causing seabird mortality and other injuries, the involved federal and  
23 state agencies believe that the Ocean Spill has impaired habitat and human use along the coast of  
24 San Mateo County.

25 G. The United States Department of the Interior, Fish and Wildlife Service  
26 ("USFWS"), as authorized under Section 311(f)(5) of the Clean Water Act ("CWA"), 33 U.S.C.  
27 § 1321(f)(5), and Section 1006 of the Oil Pollution Act of 1990 ("OPA"), 33 U.S.C. § 2706; the  
28 National Oceanic and Atmospheric Administration ("NOAA"), as authorized under Section

1 311(f)(5) of the CWA, Section 1006 of OPA, and Section 312(c) of the National Marine  
2 Sanctuaries Act ("NMSA"), 16 U.S.C. § 1443(c); and the California Department of Fish and  
3 Game ("CDFG"), the California State Lands Commission ("CSLC"), and the California  
4 Department of Parks and Recreation ("CDPR"), as authorized under Section 311(f)(5) of the  
5 CWA, Section 1006 of OPA, and the Lempert-Keene-Seastrand Oil Spill Prevention and Response  
6 Act. Government Code §§ 8670.1, *et seq.*, are joint Trustees for natural resources and are  
7 authorized to assess injuries to federal and state natural resources caused by releases of oil and  
8 hazardous substances and to recover damages for those injuries, to be used to restore, rehabilitate,  
9 replace, or acquire the equivalent of the affected natural resources.

10 H. The state and federal Trustees have preliminarily evaluated the impacts from the  
11 Ocean Spill to the affected natural resources and propose to carry out certain kinds of projects to  
12 restore such resources or their services injured by the Spill. The Trustees will plan and  
13 implement the necessary restoration projects, pursuant to the relevant statutory authorities and  
14 regulations.

15 I. The Parties believe and this Court finds that this Decree has been negotiated by the  
16 Parties in good faith and that it is fair, reasonable and in the public interest. The Trustees believe  
17 that the Decree will expedite restoration, rehabilitation, replacement, or acquisition of the  
18 equivalent of the natural resources that Plaintiffs assert have been injured, destroyed or lost and  
19 will avoid potentially prolonged, difficult, expensive, and complicated litigation.

20 J. The United States of America has filed a criminal action as a result of the Spills,  
21 United States v. Pearl Shipping Corporation, et al., No. CR-98-00384 MHP, in the United States  
22 District Court for the Northern District of California (the "Criminal Case").

23 K. It is expressly understood and agreed that any monies to be paid by the Defendants  
24 in the Criminal Case pursuant to any plea agreement are to be deemed wholly separate, and  
25 wholly in addition to, the \$5,518,000.00, the payment of which is set forth below and is the  
26 subject of this Consent Decree.

27 NOW, THEREFORE, before the taking of any testimony, before the adjudication  
28 of the merits of this case, and without admission of any issue of law, fact, liability or

Consent Decree

1 responsibility by Defendants, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

2 **JURISDICTION**

3 1. This Court has jurisdiction over the subject matter of this action pursuant to  
4 28 U.S.C. §§ 1331, 1333, 1345, 1355, and 1367; Section 311(n) of the CWA, 33 U.S.C.  
5 § 1321(n); Sections 307 and 312 of the National Marine Sanctuaries Act ("NMSA"), as amended,  
6 16 U.S.C. §§ 1437, 1443; and Sections 1006 and 1017(b) of the Oil Pollution Act of 1990  
7 ("OPA"), 33 U.S.C. §§ 2706, 2717(b). Venue is proper in this Court pursuant to 28 U.S.C.  
8 §§ 1391(b), (c), and 1395(a); and 33 U.S.C. § 2717(b). The Court has personal jurisdiction over  
9 the Parties to this Consent Decree, and no Party contests venue or the Court's jurisdiction for  
10 purposes of this Decree.

11 **PARTIES BOUND**

12 2. This Decree shall apply to and be binding upon the United States, the State, and  
13 the District Attorneys and upon Pearl, Anax, and their successors.

14 **DEFINITIONS**

15 3. Whenever the following terms are used in this Decree, they shall have the meanings  
16 set forth below:

17 (a) "Natural Resource" and "Natural Resources" mean land, fish, wildlife,  
18 biota, air, water, ground water, drinking water supplies, and other such resources belonging to,  
19 managed by, held in trust by, appertaining to, or otherwise controlled by the United States  
20 (including resources of the Gulf of the Farallones National Marine Sanctuary and the Monterey  
21 Bay National Marine Sanctuary) and/or the State of California and/or the services provided by  
22 such resources to other resources and/or humans.

23 (b) "Natural Resource Trustees" or "Trustees" mean those federal and state  
24 agencies and/or officials designated or authorized pursuant to the CWA, OPA, the NMSA, and/or  
25 state law to act as Trustees for the Natural Resources managed by, controlled by, or appertaining  
26 to the United States and/or the State of California. Specifically, as used in this Decree, the  
27 Trustees are USFWS, NOAA, CDFG, CSLC, and CDPR.

28

1 (c) "Restore" or "Restoration" means any action or combination of actions to  
2 restore, rehabilitate, replace, or acquire the equivalent of any Natural Resource or its services  
3 injured, lost, or destroyed as a result of the Ocean Spill.

4 (d) "Unified Command" means the federal On-Scene Coordinator, the state On-  
5 Scene Coordinator, and representatives of the responsible party, as described in 40 C.F.R.  
6 § 300.135(d).

7 **SETTLEMENT PAYMENT BY DEFENDANTS**

8 4. On the date this Consent Decree is lodged, defendants shall deposit the sum of  
9 FIVE MILLION, FIVE HUNDRED AND EIGHTEEN THOUSAND DOLLARS  
10 (\$5,518,000.00) into an escrow account bearing interest on commercially reasonable terms, in a  
11 federally-chartered bank. Such monies shall remain in escrow until entry of the Decree (including  
12 entry after remand from any appeal of an initial disapproval of the Decree by the District Court).  
13 If the Decree is not entered by the District Court, and the time for any appeal of that decision has  
14 run, or if the District Court's denial of entry is upheld on appeal, the monies placed in escrow,  
15 together with accrued interest thereon, shall be returned to defendants. If the Decree is entered  
16 by the District Court, defendants shall, within 15 days thereof, cause the monies in escrow to be  
17 released and disbursed as follows:

18 (a) \$4,007,242.00 (together with accrued interest on the total amount of  
19 \$5,518,000.00 placed in escrow) to the Department of the Interior, on behalf of the state and  
20 federal Trustees for the purposes set forth in Subparagraphs (iii) and (iv), below, by Electronic  
21 Funds Transfer ("EFT") in accordance with instructions to be provided to Defendants by the  
22 Department of Interior upon lodging of this Decree. A transmittal letter indicating that the EFT  
23 has occurred shall be sent to the Parties in accordance with Paragraph 10 ("Notices") and to:

24 Charles McKinley, Esq.  
25 Assistant Field Solicitor  
26 U.S. Department of the Interior  
27 600 Harrison Street, Suite 545  
28 San Francisco, California 94105

and

1 Bruce Nessler  
2 DOI Restoration Fund Manager  
3 1849 "C" Street, N.W.  
4 Mail Stop 4449  
5 Washington, D.C. 20240

6 The EFT and transmittal letter shall reflect that the payment is being made to the "Natural  
7 Resources Damage Assessment and Restoration Fund, Account No. 14X5198 - M/T COMMAND  
8 Oil Spill." The Department of the Interior will assign these funds a special project number to  
9 allow the funds to be maintained as a segregated account within the Department of the Interior  
10 Natural Resource Damage Assessment and Restoration Fund, Account No. 14X5198 (the "M/T  
11 COMMAND NRD Account").

12 (i) The Department of the Interior shall, in accordance with law,  
13 manage and invest funds in the M/T COMMAND NRD Account and any  
14 return on investments or interest accrued on the Account for use by the  
15 Natural Resources Trustees in connection with Restoration of Natural  
16 Resources impacted by the Ocean Spill. The Department of the Interior  
17 shall not make any charge against the M/T COMMAND NRD Account for  
18 any investment or management services provided.

19 (ii) The Department of the Interior shall hold all funds in the M/T  
20 COMMAND NRD Account, including return on investments or accrued  
21 interest, subject to the provisions of this Decree and any Memorandum of  
22 Understanding ("MOU") entered into by the Natural Resource Trustees.

23 (iii) The Natural Resources Trustees commit to the expenditure of the  
24 funds set forth in this subpart "(a)" (after deduction of past federal damage  
25 assessment costs) for the design, implementation, permitting (as necessary),  
26 monitoring, and oversight of Restoration projects, and for the costs of  
27 complying with the requirements of the law to conduct a restoration  
28 planning and implementation process.

(iv) The details for specific projects will be contained in a Restoration  
plan proposal or proposals to be developed jointly by the Natural Resource



1 Trustees. In allocating monies for Restoration projects, the Trustees shall  
2 take into consideration their preliminary determination of the injuries  
3 caused by the Ocean Spill. The Trustees have determined that seabirds,  
4 primarily common murre, suffered the greatest injury as a result of the  
5 Ocean Spill and that, as a result, the restoration money will primarily be  
6 used for projects benefitting seabirds. The Trustees are in the process of  
7 preparing an MOU that will set forth more precisely the allocation of the  
8 restoration monies. The final Restoration plan will be prepared and  
9 implemented jointly by the Trustees, after providing public notice,  
10 opportunity for public input, and consideration of any public comment.  
11 The Trustees jointly retain the ultimate authority and responsibility to use  
12 the funds in the M/T COMMAND NRD Account to Restore Natural  
13 Resources in accordance with applicable law, this Decree, and any MOU  
14 entered into by the Trustees.

15 (b) \$196,200 for a civil penalty pursuant to the NMSA, to be used for purposes  
16 consistent with Section 307(e)(1)(C) of the NMSA, 16 U.S.C. § 1437(e)(1)(C), by EFT according  
17 to instructions to be provided to Defendants upon lodging of this Decree. A transmittal letter  
18 indicating that the above payment has been made pursuant to the terms of this Decree shall be sent  
19 to the Parties in accordance with Paragraph 10 ("Notices").

20 (c) \$242,092.38 by trust check, certified check, or money order payable to the  
21 Department of Fish and Game, Office of Spill Prevention and Response for response costs. The  
22 check or money order shall be sent by certified mail to:

23 The Department of Fish and Game  
24 Office of Spill Prevention and Response  
25 ATTN: Steven Sawyer and Katherine Verrue-Slater, Staff Counsels  
1700 "K" Street, Suite 250  
Sacramento, California 95814.

26 The check shall reflect that it is a payment to the Oil Spill Response Trust Fund created pursuant  
27 to Government Code Section 8670.46. Any amount remaining after reimbursement of costs  
28 associated with the Bay Spill and the Ocean Spill shall be deposited into the Environmental  
Consent Decree

1 Enhancement Fund.

2 (d) \$ 36,767.00 by trust check, certified check, or money order payable to the  
3 Department of Fish and Game, Office of Spill Prevention and Response, for damage assessment  
4 costs. The check or money order shall be sent by certified mail to:

5 The Department of Fish and Game  
6 Office of Spill Prevention and Response  
7 Attn: Steven Sawyer and Katherine Verrue-Slater  
8 Staff Counsels  
9 1700 "K" Street, Suite 250  
10 Sacramento, California 95814

11 The check shall reflect that it is a payment to the Oil Spill Response Trust Fund created pursuant  
12 to Government Code Section 8670.46.

13 (e) \$324,707.62 by trust check, certified check, or money order payable to the  
14 Department of Fish and Game, Office of Spill Prevention and Response for civil penalties. The  
15 check or money order shall be sent by certified mail to:

16 The Department of Fish and Game  
17 Office of Spill Prevention and Response  
18 ATTN: Steven Sawyer and Katherine Verrue-Slater, Staff Counsels  
19 1700 "K" Street, Suite 250  
20 Sacramento, California 95814.

21 The check shall reflect that it is a payment to the Environmental Enhancement Fund created  
22 pursuant to Government Code Section 8670.70.

23 (f) \$ 300,000 by trust check, certified check, or money order payable to the  
24 Department of Fish and Game, Office of Spill Prevention and Response. The check or money  
25 order shall be sent by certified mail to:

26 The Department of Fish and Game  
27 Office of Spill Prevention and Response  
28 ATTN: Steven Sawyer and Katherine Verrue-Slater, Staff Counsels  
1700 "K" Street, Suite 250  
Sacramento, California 95814.

The check shall reflect that it is a payment to the Oil Spill Prevention and Administration Fund  
created pursuant to Government Code Section 8670.38.

(g) \$5991.00 by trust check, certified check, or money order payable to the  
California State Lands Commission, for damage assessment costs. The check or money order

1 shall be sent by certified mail to:

2                   The California State Lands Commission  
3                   100 Howe Ave., Suite 100-South  
4                   Sacramento, California 95825

5                   (h)     \$90,000 by trust check, certified check, or money order payable to the  
6 California State Lands Commission, Trustee for the Kapiloff Land Bank Fund, to be deposited  
7 in the Land Bank Fund, Fund 0943 in the State Treasury, as compensation for trespass damages.

8 The check or money order shall be sent by certified mail to:

9                   The California State Lands Commission  
10                   100 Howe Avenue, Suite 100-South  
11                   Sacramento, California 95825.

12                   (i)     \$5,000 by trust check, certified check, or money order payable to the State  
13 Water Resources Control Board Cleanup and Abatement Account for civil liability penalties. The  
14 check or money order shall be sent by certified mail to:

15                   State Water Pollution Cleanup and Abatement Account  
16                   Water Resources Control Board  
17                   901 "P" Street, P.O. Box 100  
18                   Sacramento, California 95812,

19 with a copy of the transmittal letter sent to:

20                   Loretta K. Barsamian  
21                   California Regional Water Quality Control Board  
22                   for the San Francisco Bay Region  
23                   1515 Clay Street, Suite 1400  
24                   Oakland, California 94612

25 The check shall reflect that it is for payment of a civil liability penalty for the M/T Command  
26 Bay Spill and Ocean Spill.

27                   (j)     \$70,000 by trust check, certified check, or money order payable to The  
28 Estuary Institute for a supplemental environmental project for assessment of on-shore ballast waste  
treatment. The check or money order shall be sent by certified mail to:

                  The San Francisco Estuary Institute  
                  1325 South 46th Street  
                  Richmond, CA 94804

A copy of the check or money order, together with a transmittal letter reflecting that the required  
payment has been made shall be sent by certified mail to:

Consent Decree

1 California Department of Justice  
2 Attn.: Mary E. Hackenbracht  
3 1515 Clay Street, Suite 2000  
4 Oakland, California 94612

with a copy of the transmittal letter sent to:

5 Loretta K. Barsamian  
6 California Regional Water Quality Control Board  
7 for the San Francisco Bay Region  
8 1515 Clay Street, Suite 1400  
9 Oakland, California 94612

The check shall reflect that it is payment for the M/T Command Bay Spill and Ocean Spill.

10 (k) \$150,000.00 by trust check, certified check, or money order payable to the  
11 National Fish and Wildlife Foundation for a supplemental environmental project for wildlife  
12 response activities. The check or money order shall be sent by certified mail to:

13 The National Fish and Wildlife Foundation  
14 c/o Eric Hammerling  
15 116 Montgomery Street, Suite 203  
16 San Francisco, California 94105

17 The check or money order shall reflect that it is to be deposited into a Trust fund account. The  
18 funds are to be used to fund the following activities: 1) the maintenance, training and deployment  
19 of an aerial survey team for the documentation of the status of wildlife resources at risk in the area  
20 of future spills in order to assist the development of effective and timely response strategies and  
21 to document resources at risk; 2) the training and deployment of a wildlife hazing team and  
22 purchase of hazing equipment to deter wildlife from utilizing oiled habitat and to reduce spill  
23 casualties; and 3) to train and equip a team to process oiled wildlife in order to provide accurate  
24 and timely documentation and to keep the Unified Command informed of the status of impacts to  
25 wildlife.

26 (l) \$90,000 by trust check, certified check, or money order payable to the  
27 District Attorney of the County of San Mateo, as trustee for the funds. The check or money order  
28 shall be sent by certified mail to:

29 Parker S. Kelly  
30 Deputy District Attorney  
31 400 County Center, Fourth Floor  
32 Redwood City, California 94063

1 The check or money order shall reflect that \$60,000 of said sum shall be paid to the San Mateo  
2 County Health Services Agency, Public Health & Environmental Protection Division, for the cost  
3 of training hazardous materials specialists concerning the recognition, identification, and sampling  
4 of suspected hazardous materials, for the costs of acquisition of an emergency response trailer,  
5 and for a digital camera and related attachments, and that \$30,000 shall be paid to the account of  
6 the San Mateo County District Attorney in the San Mateo County general fund.

7         5.       (a)       Subject to Paragraph 5(b), below, in consideration for the receipt of the  
8 payments as specified in Paragraph 4 of this Decree, the United States covenants not to sue or take  
9 administrative action under the CWA, OPA, the NMSA, or the ESA, or to assert any admiralty  
10 and maritime claims, arising out of the Bay Spill and Ocean Spill, and the State, the City and  
11 County of San Francisco, and the County of San Mateo covenant not to sue or take administrative  
12 action on any claim for response costs, natural resource damages, civil penalties, or other  
13 damages, or assert any charge for criminal liability, arising out of the Bay Spill and Ocean Spill.  
14 The benefits of this Paragraph extend to Defendants Pearl and Anax: to Aran Shipping and  
15 Trading, S.A. ("Aran"); and to Pegasus Shipping (Hellas), Ltd., to the extent of liability that  
16 could be asserted as to that corporation based upon its status as a parent of Pearl, Anax, and/or  
17 Aran. The benefits of this Paragraph also extend to current and former officers, directors, and  
18 employees of the corporate entities named in this Paragraph, but only to the extent that any  
19 obligations of, or liability that might be asserted against, such officers, directors, or employees  
20 is based upon their status as officers, directors, or employees of any such corporate entity and  
21 upon actions or omissions in such capacity, and not to the extent that any obligations or liability  
22 arises independently of actions or omissions committed in their capacity as officers, directors, or  
23 employees.

24         (b)       As part of the Plea Agreement in the Criminal Case, defendants therein have  
25 agreed to pay restitution to the United States in the amount of \$1,231,737.76, said restitution  
26 representing the response costs otherwise recoverable by the United States pursuant to 33 U.S.C.  
27 § 2702(b)(1) as a result of the matters alleged in the Complaint in this action. It is expressly  
28 understood and agreed, without limitation, that any and all releases of civil liability for such

Consent Decree

1 response costs provided to defendants or to any other person or entity, whether or not referred  
2 to in this Consent Decree herein, and whether or not made a party or a signatory to this Consent  
3 Decree herein, shall be, and hereby are, expressly conditioned upon, and shall not be effective  
4 until, the final, unconditional, and irrevocable disbursement of the full amount of said restitution  
5 monies to the United States, by and through the National Pollution Funds Center. It is further  
6 expressly understood and agreed, without limitation, that unless and until plaintiff United States'  
7 foregoing response costs have been paid pursuant to the final, unconditional, and irrevocable  
8 disbursement of the full amount of said restitution monies to the National Pollution Funds Center,  
9 this Consent Decree, whether entered and approved or not entered and approved, shall be, and  
10 hereby is, wholly and unconditionally without prejudice to any and all of the United States'  
11 rights, demands, and causes of action to recover said response costs against defendants or any  
12 other person or entity, whether or not referred to in this Consent Decree herein, and whether or  
13 not made a party or a signatory to this Consent Decree herein.

14 (c) As part of the Plea Agreement in the Criminal Case, the defendants therein  
15 have agreed to pay a penalty to the United States in the amount of \$200,000 for violation of  
16 Sections 9(a)(1) and 11(b)(1) of the ESA, 16 U.S.C. §§ 1538(a)(1), 1540(b)(1). It is expressly  
17 understood and agreed, without limitation, that any and all satisfaction of civil-liability for such  
18 ESA violations provided to defendants or to any other person or entity, whether or not referred  
19 to in this Consent Decree, and whether or not made a party or a signatory to this Consent Decree,  
20 shall be, and hereby is, expressly conditioned upon, and shall not be effective until, the final,  
21 unconditional, and irrevocable disbursement of the full amount of said penalty monies to the  
22 United States. It is further expressly understood and agreed, without limitation, that unless and  
23 until the ESA penalty has been paid pursuant to the final, unconditional, and irrevocable  
24 disbursement of the full amount of said penalty, this Consent Decree, whether entered and  
25 approved or not entered and approved, shall be, and hereby is, wholly and unconditionally without  
26 prejudice to any and all of the United States' rights, demands, and causes of action to pursue a  
27 penalty for the violation of ESA against Defendants or any other person or entity, whether or not  
28 referred to in this Consent Decree and whether or not made a party or a signatory to this Consent

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1 the United States will set out the following policies and procedures: Whereby both Companies:  
2 a. will undertake a comprehensive review of their existing Environmental  
3 Compliance Programs and ensure that they encompass the International Convention for the  
4 Prevention of Pollution from Ships ("MARPOL") and the requirements of the United States as set  
5 out in Title 33, Code of Federal Regulations, Subchapter O - Pollution with Emphasis on Oil  
6 Spill Reporting Requirements. The redrafted Environmental Compliance Program shall be subject  
7 to government review and approval by the Court;

8 b. will maintain, at their cost, an effective Environmental Compliance and  
9 Training Program regarding the operation of all oil tankers under their operational and managerial  
10 control, including the M/T Command, as it relates to the management, handling and disposal of  
11 oil and waste oil, including slops and bilge waste. Both Companies agree to engage the services,  
12 at their cost, of an independent environmental and maritime consultant, after consultation with the  
13 government and subject to the approval of the Court, to reassess the current operation and training  
14 needs on each vessel under their operational and managerial control, of: (1) the engine room,  
15 including the handling and disposal of fuel and bilge waste; (2) the cargo oil system, including  
16 tank washing activities and the disposal of residues; and (3) fuel oil and oil spill reporting  
17 procedures;

18 c. agree to use their best efforts to implement the compliance and training  
19 recommendations of the above-referenced consultant so as to ensure that the vessels under their  
20 operational and managerial control will comply with all relevant rules, regulations and laws,  
21 including MARPOL and U.S. laws, regarding the proper management, handling and disposal of  
22 bunker fuel oil, bilge oil, and oily slops and residues;

23 d. the first line managers and crew members of both Companies, whether  
24 employees or independent contractors, shall receive training through an independent consultant  
25 on environmental compliance and reporting requirements. Both Companies will maintain records  
26 of the type of training provided to each employee and the frequency of such training;

27 e. shall ensure that compliance with MARPOL and U.S. environmental  
28 policies is a positive factor in all appropriate personnel evaluations and that failure to comply with



1 such policies and laws is a negative factor;

2 f. shall identify, on each vessel under their operational and managerial control,  
3 an officer who shall be responsible for ensuring compliance with the reporting requirements of  
4 MARPOL and U.S. laws. This officer will also be familiar with the provisions of the  
5 Environmental Compliance Program. This officer shall report directly to the Chief Engineer or  
6 equivalent level and may report directly to the Master of the ship and Vice President or other  
7 senior management official regarding environmental matters. Both Companies shall also identify,  
8 on each vessel, an officer responsible for regular "all hands" training on environmental  
9 compliance and reporting requirements;

10 g. will hire an independent auditing firm acceptable to the United States which,  
11 for a period of three years from the date of this Consent Decree, will assist in inspecting all  
12 vessels under their operational and managerial control to look for possible pollution and/or safety  
13 problems and make at least yearly reports to the United States Coast Guard and Environmental  
14 Protection Agency concerning all safety, waste stream and pollution issues;

15 h. will increase crew training, monitoring, inspections and internal reporting  
16 as set forth in the Environmental Compliance Program to avoid any future oil spills;

17 i. agree to maintain their compliance training programs for all tanker ships  
18 under their operational and managerial control for as long as they remain under their operational  
19 management and control. Both Companies further agree that this compliance and training  
20 program will be diligently enforced by both the officers and crew of each vessel as well as by on-  
21 shore managers of the vessel and that a senior management official will be designated to be  
22 directly responsible for monitoring, maintaining and enforcing the provisions of this Compliance  
23 Agreement; and agree to make reports on environmental compliance and training a part of their  
24 Board of Directors' meeting agendas. Both Companies also agree that their Boards will establish  
25 procedures whereby they will receive and review reports on internal environmental policies,  
26 incidents and training.

#### 27 NOTICES

28 12. If written notice is required to be given by one Party to another for any reason, it  
Consent Decree

1 shall be directed to the individuals and addresses specified below, unless the individuals specified  
2 or their successors give notice, in writing, to the other Parties that notices should be directed to  
3 a different individual or address. All notices shall reference the civil action settled through this  
4 Decree, and the United States Department of Justice file number, ENRD 90-5-1-1-06455.

5 Notice to the United States:

6 Chief, Environmental Enforcement Section  
7 Environment and Natural Resources Division  
8 United States Department of Justice  
9 P.O. Box 7611 Ben Franklin Station  
10 Washington, D.C. 20044-7611

11 David B. Glazer  
12 Environmental Enforcement Section  
13 Environment and Natural Resources Division  
14 United States Department of Justice  
15 301 Howard Street, Suite 870  
16 San Francisco, California 94105

17 Philip A. Berns  
18 Attorney in Charge, West Coast Office  
19 Torts Branch, Civil Division  
20 Michael Underhill  
21 Trial Attorney  
22 Torts Branch, Civil Division  
23 United States Department of Justice  
24 10-4640 Federal Bldg., P.O. Box 36028  
25 450 Golden Gate Avenue  
26 San Francisco, California 94102-3463

27 Notice to the State:

28 Administrator, California Office of  
Spill Prevention and Response  
1700 "K" Street, Suite 250  
Sacramento, California 95814

Executive Officer  
California Regional Water Control Board  
San Francisco Bay Region  
1515 Clay Street, Suite 1500  
Oakland, California 94612

Executive Officer  
California State Lands Commission  
100 Howe Avenue, Suite 100-South  
Sacramento, California 95825

California Department of Parks and Recreation  
Attn: Laura Reimche  
1416 9<sup>th</sup> Street

1 Sacramento, California 95814

2 Ken Alex  
3 Supervising Deputy Attorney General  
4 California Attorney General's Office  
5 1515 Clay Street, Suite 2000  
6 Oakland, California 94612-1413

7 Notice to the San Francisco District Attorney:

8 Judy Lee  
9 Deputy District Attorney  
10 San Francisco District Attorneys Office  
11 732 Brannan Street, Second Floor  
12 San Francisco, California 94103

13 Notice to the San Mateo County District Attorney:

14 Parker S. Kelly  
15 Deputy District Attorney  
16 400 County Center, Fourth Floor  
17 Redwood City, California 94063

18 Notice to Pearl Shipping Company:

19 Faith E. Gay  
20 Sidley & Austin  
21 875 Third Avenue  
22 New York, New York 10022

23 Notice to Anax International Agencies, Inc.:

24 John M. Hogan  
25 Holland & Knight, LLP  
26 701 Brickell Avenue, Suite 3000  
27 Miami, Florida 33131

28 **REPRESENTATIVES**

13. Each undersigned representative of a Party certifies that he or she is fully authorized to enter into the terms and conditions of this Decree and to execute and legally bind such Party to this Decree.

**MODIFICATION**

14. Minor modifications not materially altering this Decree may be effected by the written agreement of the Parties. No other modifications to this Decree may be made unless the Parties agree in writing to the modification and the Court approves of the requested modification.

1 PUBLIC COMMENT AFTER LODGING

2 15. Final approval of this Consent Decree by the United States and the State will be  
3 subject to public notice and comment. The United States and the State may withdraw or withhold  
4 their consent to the entry of the Decree if public comments establish, in the view of either, that  
5 entry of this Consent Decree would be inappropriate, improper, or inadequate. After reviewing  
6 the public comments, if any, the United States and the State shall advise the Court and the other  
7 Parties whether the United States and the State seek entry of this Consent Decree. The other  
8 Parties agree to the entry of this Consent Decree without further notice and agree not to withdraw  
9 their consent to entry of the Decree pending consideration of public comments and approval by  
10 the Court. Should the United States or the State withdraw its consent to the entry of this Consent  
11 Decree, the Decree shall be null and void.

12 CONTINUING JURISDICTION

13 16. The Court retains jurisdiction to enforce the terms of this Consent Decree and to  
14 resolve any disputes arising hereunder.

15 ENTIRE AGREEMENT

16 17. Except as to any separate plea agreement in the Criminal Case, this Consent Decree  
17 contains the entire agreement of the parties hereto with respect to the subject matter hereof and  
18 supersedes all prior agreements and understandings, whether oral or written.

19 COSTS


20 18. Subject to Paragraph 4, each Party shall bear its own attorneys fees and costs in  
21 this action.

22 COUNTERPARTS

23 19. The Parties agree that this Decree may be executed in counterparts.

24 APPROVED AND ENTERED:

25  
26  
27 Dated: March 31, 2000

28   
MARILYN HALL PATEL  
Chief United States District Judge

Consent Decree

1 WE HEREBY CONSENT to the entry of this Decree (subject to the public  
2 comment provisions of Paragraph 15 of this Decree):

3 FOR THE UNITED STATES OF AMERICA:

4  
5 By: Lois J. Schiffer / by (handwritten signature)  
6 LOIS J. SCHIFFER  
7 Assistant Attorney General  
8 Environment and Natural Resources Division  
9 United States Department of Justice  
10 Washington, D.C. 20530

11 Dated: 9-24-99

12 ROBERT S. MUELLER, III, State Bar No. 59775  
13 United States Attorney  
14 GAIL KILLEFER, State Bar No. 157248  
15 Assistant United States Attorney  
16 Northern District of California  
17 450 Golden Gate Avenue, Box 36055  
18 San Francisco, California 94102  
19 Telephone: (415) 436-7180

20 By: (handwritten signature)  
21 DAVID B. GLAZER  
22 Environmental Enforcement Section  
23 Environment and Natural Resources Division  
24 United States Department of Justice  
25 301 Howard Street, Suite 870  
26 San Francisco, California 94105  
27 (415) 744-6491

28 Dated: 9-24-99

Of Counsel:  
29 Charles McKinley, Esq.  
30 Office of the Solicitor  
31 U.S. Department of Interior  
32 San Francisco, California  
33 Katherine A. Pease, Esq.  
34 NOAA Office of General Counsel  
35 Long Beach, California


Consent Decree

1 WE HEREBY CONSENT to the entry of this Decree:

2  
3 FOR THE UNITED STATES OF AMERICA:

4 DAVID W. OGDEN  
5 Assistant Attorney General  
6 Civil Division  
7 United States Department of Justice  
8 Washington, D.C. 20530

9 By: PHILIP A. BERNIS  
10 Attorney in Charge, West Coast Office  
11 Torts Branch, Civil Division

12   
13 MICHAEL UNDERHILL  
14 Trial Attorney  
15 Torts Branch, Civil Division  
16 U.S. Department of Justice

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27  
28 Dated: 9/24/99

1 WE HEREBY CONSENT to the entry of this Decree (subject to the public  
2 comment provisions of Paragraph 15 of this Decree):

3 FOR THE STATE OF CALIFORNIA DEPARTMENT OF FISH AND GAME  
4

5  
6 By: 

7 GARY GREGORY, Administrator  
8 Office of Spill Prevention and Response  
California Department of Fish and Game

9 Dated: 4/23/99  
10  
11  
12  
13

14 Of Counsel:

15 Ken Alex  
16 Mary Hackenbracht  
Supervising Deputy Attorneys General  
Oakland, California

17 Steven Sawyer, Esq.  
18 Katherine Verrue-Slater, Esq.  
19 California Department of Fish and Game  
Office of Spill Prevention and Response  
20 Sacramento, California  
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Consent Decree

1 WE HEREBY CONSENT to the entry of this Decree (subject to the public  
2 comment provisions of Paragraph 15 of this Decree):

3 FOR THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD FOR THE  
4 SAN FRANCISCO BAY REGION

5  
6 By: *Loretta K. Barsamian*  
7 LORETTA K. BARSAMIAN  
8 Executive Officer  
9 California Regional Water Quality Control  
Board - San Francisco Bay Region

10 Dated: 9-22-99  
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17 Of Counsel:  
18 Mary Hackenbracht  
19 Supervising Deputy Attorney General  
Oakland, California  
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1 WE HEREBY CONSENT to the entry of this Decree (subject to the public comment  
2 provisions of Paragraph 15 of this Decree):

3 FOR THE CALIFORNIA DEPARTMENT OF PARKS AND RECREATION  
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5  
6 By:

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8 RUSTY AREIAS, Director  
9 California Department of Parks  
10 And Recreation

11 Dated:

12 9/23/97  
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1 WE HEREBY CONSENT to the entry of this Decree (subject to the public comment  
2 provisions of Paragraph 15 of this Decree):

3 FOR THE CALIFORNIA STATE LANDS COMMISSION  
4

5  
6 By: Paul Thayer  
7 PAUL THAYER  
8 Executive Officer  
9 California State Lands Commission  
10 100 Howe Avenue, Suite 100-South  
11 Sacramento, California 95825

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19  
20 Dated: September 23, 1999

21 Of Counsel:

22 Dennis Eagan  
23 Supervising Deputy Attorney General  
24 Oakland, California


25 Mark Meier  
26 Staff Counsel  
27 California State Lands Commission  
28 Sacramento, California

Consent Decree

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WE HEREBY CONSENT to the entry of this Decree:

FOR THE DISTRICT ATTORNEY'S OFFICE FOR THE CITY AND COUNTY OF SAN FRANCISCO:

By:   
RICHARD D. ISELHART  
Chief Deputy District Attorney  
San Francisco District Attorney's Office  
850 Bryant Street, Suite 300  
San Francisco, California 94103  
(415) 553-1752


Dated: 9/23/99

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WE HEREBY CONSENT to the entry of this Decree:

FOR THE DISTRICT ATTORNEY'S OFFICE FOR THE COUNTY OF SAN MATEO:

By:

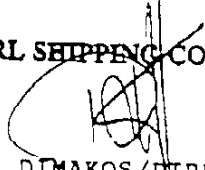
  
\_\_\_\_\_  
JAMES P. FOX  
District Attorney  
County of San Mateo  
400 County Center, Fourth Floor  
Redwood City, California 94063  
(650) 363-4877

Dated: 1-23-97

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WE HEREBY CONSENT to the entry of this Decree:

FOR PEARL SHIPPING COMPANY



By: C. DIMAKOS/DIRECTOR

Dated: 24 September 1999

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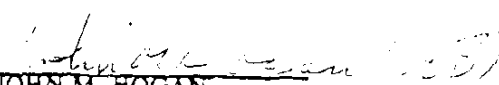
WE HEREBY CONSENT to the entry of this Decree:

FOR ANAX INTERNATIONAL AGENCIES, INC.



By: S. VAGIAS/DIRECTOR

Dated: 24 September 1999

  
JOHN M. HOGAN  
Holland & Knight, LLP  
701 Brickell Avenue, Suite 3000  
Miami, Florida 33131

Dated: 9/24/99

ANAX INTERNATIONAL AGENCIES, INC.

GENERAL CORPORATE POLICY,  
MARITIME ENVIRONMENTAL PROTECTION  
POLICY,  
AND  
MARITIME COMPLIANCE PROGRAM

September 15, 1999

EXHIBIT B

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## INTRODUCTION

Anax International Agencies, Inc. (hereinafter Anax or Company) always has been, and continues to be, committed to conducting its business with integrity and in accordance with all federal, state, and local laws to which its business activities are subject. It is the long-standing policy of the Company to prevent the occurrence of unethical or unlawful behavior, to halt such behavior as soon as reasonably possible after its discovery, to discipline personnel who violate Company policies, including individuals responsible for the failure to detect a violation, and to implement any changes in policy and procedure necessary to prevent recurrences of a violation. The Company has instituted various policies and programs to reflect these commitments.

Anax encourages all personnel to internally report all actual and potential non-compliance with its Maritime Compliance Program. The program details a variety of means to report such non-compliance, protecting confidentiality where appropriate. No individual's position or influence is considered to be more important than the goal of institutional integrity. Those who honestly report wrongdoing will be protected from retaliation.



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SPYROS VAGLAS

## INTRODUCTION

Anax International Agencies, Inc. (hereinafter Anax or Company) always has been, and continues to be, committed to conducting its business with integrity and in accordance with all federal, state, and local laws to which its business activities are subject. It is the long-standing policy of the Company to prevent the occurrence of unethical or unlawful behavior, to halt such behavior as soon as reasonably possible after its discovery, to discipline personnel who violate Company policies, including individuals responsible for the failure to detect a violation, and to implement any changes in policy and procedure necessary to prevent recurrences of a violation. The Company has instituted various policies and programs to reflect these commitments.

Anax encourages all personnel to internally report all actual and potential non-compliance with its Maritime Compliance Program. The program details a variety of means to report such non-compliance, protecting confidentiality where appropriate. No individual's position or influence is considered to be more important than the goal of institutional integrity. Those who honestly report wrongdoing will be protected from retaliation.

## I. GENERAL CORPORATE POLICY

The General Corporate Policy of Anax provides officers, directors and employees and crew members, as well as those with whom we do business with a formal statement of the Company's commitment to the standards and rules of ethical business conduct spelled out in this Policy. Anax wants to ensure that the waters on which its ships operate are protected to the maximum practicable extent from degradation. To that end, we have also instituted a policy addressing that specific issue, entitled the Anax Maritime Environmental Protection Policy. Finally, we have instituted a Maritime Compliance Program, which contains a number of specific commitments to protect the maritime environment in our routine operations.

It is the policy of Anax to deter, detect, and prevent the occurrence of unethical or unlawful behavior, to halt any such behavior as soon as reasonably possible after its discovery, and to discipline its personnel who violate the standards contained in the Policy, including individuals responsible for the failure to detect a violation. It is therefore imperative that all Anax personnel comply with the standards contained in the Policy, immediately report any apparent or alleged violations thereof to his or her supervisor or to the Corporate Compliance Officer and assist any other compliance personnel in investigating any allegations of wrongdoing.

No policy statement or compliance program can cover all circumstances or anticipate every situation. Consequently, employees and crew members encountering situations not addressed specifically by this policy statement and related documents should apply the overall philosophy and concepts of this General Corporate Policy to the situation, along with the highest ethical standards observed by honorable people everywhere. If a question still exists in your mind after so doing, the particular circumstances should be reviewed with your supervisor, a member of senior management, or the Corporate Compliance Officer.

A. The Powers and Fiduciary Duties of Directors and Officers

Anax acts through its directors, officers, employees, crew members, and agents. The Board of Directors makes fundamental management and policy decisions through adopting provisions in the bylaws or through resolutions at Board of Directors' meetings, such as the through adoption of this General Corporate Policy and the related Maritime Environmental Protection Policy and Maritime Compliance Program. Directors and officers occupy a fiduciary relationship to the Company. However, the directors do not carry out the day-to-day management of the Company; that function is left to the officers and other individuals in supervisory roles.

The directors and officers are required to exercise the utmost good faith and to exercise their powers solely in the interests of Anax. An individual accepting the position of director or officer contracts to give diligent attention to the Company's concerns and to be faithful and honest in the discharge of the duties which the position imposes. A director or officer is not expected to be infallible, but should act with an honest belief and in good faith, and in doing so, has carried out his or her fiduciary obligations to the Company.

The Board of Directors of Anax has five primary functions:

- to select management and to determine its compensation;
- to review and approve Company policies, financial objectives, major strategies, and plans;
- to provide advice and counsel to top management;
- to select and recommend a slate of candidates for the Board of Directors and to evaluate Board processes and performance; and
- to institute policies and procedures to further the goals of Anax.

In order to carry out its primary functions, the Board is charged with obligations and duties in overseeing the business conduct and ethical standards of the Company.

The Officers of Anax also have the fiduciary responsibility to act on behalf of and in the best interests of the Company. They are not to act in furtherance of their own self interests. The management of the Company will be conducted by or under the supervision of senior officers as designated by the Board.

In performing the management function, the Officers are obligated to act in a manner consistent with the standards of Anax, to execute specific plans, policies, or directions of the Board, and to work with and on behalf of the Board to ensure that every director, officer, employee, and crew member complies with this General

Corporate Policy, the Maritime Environmental Protection Policy, and the Maritime Compliance Program.

**B. Ethics**

Anax's unwavering commitment is to obey all applicable laws, rules, and regulations. However, the Company's commitment does not stop there. Even where the law is permissive, the Company chooses the course of the highest integrity. To some extent, customs, traditions, and mores differ from place to place, and this must be recognized. Honesty, however, is not subject to criticism in any culture. Shades of dishonesty simply invite demoralizing and reprehensible judgments. A well-founded reputation for scrupulous dealing is itself a priceless Anax asset.

All Anax personnel must understand that we do care how results are obtained, not just that they are obtained. Personnel are required to record all transactions accurately in their books and records and to be honest and forthcoming with internal and external auditors.

Equally important, we expect candor from managers at all levels, and compliance with the Company's policies, accounting rules, and controls. One harm which results when personnel conceal information from higher management or from the Corporate Compliance Officer is that subordinates within the organization think they are being given a signal that Company policies and rules can be ignored when they are inconvenient. This can result in corruption and demoralization of an organization. Anax will not tolerate this. Our organization will accept nothing short of honesty, including honest accounting, honest budget proposals, and honest economic evaluation of projects.

**C. Books and Records**

■ **Falsification of Records**

U.S. law requires Anax to assure that its books and records accurately reflect the true nature of the transactions represented therein. Therefore, in all of our operations, it is against Company policy, and possibly illegal, for any personnel to intentionally or negligently cause our books and records to be inaccurate. Examples would include preparing records that make it appear as though an operation was conducted in one manner when it was actually conducted in a different manner; that payments were made to one person when, in fact, they were made to another; that expenditures were made in one manner when they were actually made in a different manner; or any other situation where records that are made to reflect an event do not accurately depict the situation.

False or artificial entries must never be made in Anax's books and records nor in any public record for any reason, nor should permanent entries in the Company's records be altered in any way.

It is very important that personnel not create or participate in the creation of any records which are intended to mislead or to conceal anything that is improper.

#### ■ Retention of Records

Disposal or destruction of Anax's records and files is not discretionary. Legal and regulatory practice require the retention of certain records for various periods of time, particularly in the personnel, health and safety, and environmental areas. In addition, when litigation or a government investigation or audit is pending, relevant records must not be destroyed until the matter is closed. Destruction of records to avoid disclosure in a legal proceeding may constitute a criminal offense. Consult with the Corporate Compliance Officer for information on retention periods and restrictions.

#### D. Safety, Health, and the Environment

Anax is committed to providing a safe and healthy work place for our employees and crew members and for visitors on our vessels or our premises. We are equally committed to preventing deterioration of the environment and minimizing the impact of our operations on the land, air, and water. These commitments can only be met through the awareness and cooperation of all personnel. We each have a responsibility to abide by safe operating procedures, to guard our own and our fellow employees' and crew members' health, and to maintain and utilize pollution prevention systems.

In the United States and other countries, regulatory agencies exist at the federal, state or local levels to insure compliance with laws and regulations affecting safety, health, and environmental protection. It is the Company's policy to comply with both the letter and the spirit of the laws and regulations enforced by these agencies and to attempt to develop a cooperative attitude with inspection and enforcement personnel from the agencies. In keeping with this spirit, personnel are encouraged to report to their supervisors conditions which they perceive to be unsafe, unhealthy, or hazardous to the environment. Compliance with applicable international, flag state, and port state health, safety, and environmental requirements shall be a positive factor in the personnel evaluation process and non-compliance shall be a negative factor. Likewise, nothing in the personnel evaluation process should provide an employee or crew member with the incentive to reduce expenditures for health, safety, or environmental compliance. The

Maritime Environmental Protection Policy and Maritime Compliance Program follow this general policy statement. Pertinent environmental requirements are summarized in Appendix E.

E. Drugs and Alcohol

Anax prohibits the use or possession of any illegal drugs or any alcohol on Company vessels. Personnel are also prohibited from being on Company vessels under the influence of either illegal drugs or alcohol.

## II. MARITIME ENVIRONMENTAL PROTECTION POLICY

Anax, its Directors and Senior Management are fully committed to the protection of the environment and to the prevention of pollution. Pollution of the environment by a ship can be caused in a number of ways, including, but not limited to, discharge from the ship of oil, sewage, garbage, and ballast water. The predominant cause of a pollution incident is human error. Anax is committed to minimising the risk of human error as a source of pollution through to adoption of this Maritime Environmental Protection Policy and Maritime Compliance Program.

Through the commitment of all personnel to the Maritime Environmental Protection Policy and Maritime Compliance Program, the company goal is to eliminate pollution incidents on its vessels.

**The purpose of this Maritime Environmental Protection Policy is:**

- To provide that the Environmental Compliance Program is reviewed on a regular basis so as to ensure that it encompasses the environmental requirements established under applicable international, flag state, and port state law, including, but not limited, to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78) and Title 33, U.S. Code of Federal Regulations (CFR), Subchapter O.
- To educate company staff, both ashore and onboard, in respect of environmental protection, including, but not limited to, the management, handling and disposal of oil and waste oil, including slops and bilge waste.
- To identify the shipboard operations that may lead to pollution.
- To establish procedures governing these operations with a view to reducing to the maximum extent feasible the risk of pollution from these operations.
- To implement a training and auditing program that will ensure compliance with company policies.
- To provide that compliance with the environmental requirements of MARPOL 73/78, U.S. law, and other applicable provisions is a positive factor in all appropriate personnel evaluations and that failure to comply with those requirements is a negative factor in the evaluations.
- To establish procedures for the reporting of pollution incidents and of non-compliance with company policy.



- To identify, on each ship, an officer who shall be responsible for ensuring compliance with reporting requirements under MARPOL 73/78, U.S. law, or other applicable requirements.
- To identify, on each ship, an officer who shall be responsible for regular "all hands" training on environmental compliance and reporting requirements.
- To identify a senior management official who shall be directly responsible for monitoring, maintaining, and enforcing the Anax Maritime Environmental Protection Policy and Maritime Compliance Program, including making regular reports to the Board of Directors on environmental compliance and training.
- To provide that the Board of Directors reviews the internal reports submitted to it on environmental policies, incidents, and training with the view of ensuring that those reports evidence compliance with the Anax Maritime Environmental Protection Policy and Maritime Compliance Program.

### III. MARITIME COMPLIANCE PROGRAM

The purpose of Anax's Maritime Compliance Program is twofold. First, it provides a mechanism to enforce the Company's Corporate and Maritime Environmental Protection Policies. Second, and perhaps more important, the Maritime Compliance Program coupled with those policies sets an ethical tone for conducting business and creates a corporate culture which enhances the reputation of the company.

The Maritime Compliance Program is simply a mechanism to educate Anax personnel as to our expectations with regard to the proper conduct of the Company's maritime business, sensitize them to the potential for and the problems caused by unethical and criminal misconduct, monitor for compliance with the Company's expectations, audit for and investigate wrongdoing, and sanction violators.

The definition of a Maritime Compliance Program is spelled out in law. See Guidelines for an Effective Compliance Program set out in Appendix A. The hallmark of an effective Maritime Compliance Program is "due diligence." It is a program designed to promote due diligence in everything from the hiring of employees and crew members to the auditing of records. It is a mechanism to ensure that Anax diligently strives to deter, detect, and prevent misconduct and criminal activity.

The Anax Maritime Compliance Program envisions education, training, investigation, detection, and reporting. The maritime compliance program also requires that subsidiaries of and agents acting for or on behalf of Anax also enact and/or comply with the Company's compliance program.

Anax intends to utilize a variety of tools to implement the Maritime Compliance Program. These tools include training and education, employee and crew member performance evaluations, a "whistleblower" reporting system and internal audits. It is the Company's intention to monitor this program to verify compliance with the Company's published standards.

A. Standards and Procedures

Anax has established compliance standards and procedures to be followed by its employees, crews, and other agents that are designed to foster ethical conduct and compliance both the letter and the spirit of applicable laws and regulations, while also reducing the prospect of criminal conduct. These compliance standards and procedures are summarized in Appendix E.

B. Corporate Compliance Officer

The Board of Directors shall appoint a Corporate Compliance Officer who may be removed only for cause. The Corporate Compliance Officer will have ultimate responsibility for overseeing compliance by Anax, its employees, its crews, and its agents with all applicable laws, the Maritime Compliance Program, and all related Company policies and procedures. The Corporate Compliance Officer shall assign an officer on each ship who shall be responsible for ensuring that the ship and its crew operate in accordance with the Maritime Compliance Program, including all applicable training and reporting requirements. This officer shall, in the performance of these duties, report directly to the Master and the Corporate Compliance Officer.

The designation of a Corporate Compliance Officer in no way diminishes or vitiates the responsibility of all personnel to comply with all Company policies and procedures, nor does it diminish every supervisor's responsibility to ensure that those personnel for which he or she has responsibility comply with the Maritime Compliance Program and related policies and procedures.

The Corporate Compliance Officer will be responsible for coordinating the annual review and updating of the Maritime Compliance Program, and related policies and procedures. In accordance with the U.S. Government Consent Decree, the Corporate Compliance Officer will also oversee the hiring by the Company of an independent auditing firm acceptable to the United States that will assist in inspecting all ships under the Company's operational and management control to look for possible pollution and/or safety problems and make at least yearly reports to the U.S. Coast Guard and Environmental Protection Agency concerning safety, waste stream, and pollution issues. The Corporate Compliance Officer also will be responsible for reporting to the Board of Directors, any special Committee of the Board, and the Chief Executive Officer on the implementation and enforcement of the Maritime Compliance Program.

In addition to these responsibilities, the Corporate Compliance Officer is responsible for the overall effectiveness of the program. In executing these

duties the Corporate Compliance Officer must perform a wide variety of tasks. Some of these duties are set out in Appendix B.

C. Delegations of Authority

Anax will exercise due care to ensure that the persons whom it entrusts with substantial authority and responsibility do not have a propensity to violate the laws or company policy. In addition to the implementation of a Maritime Compliance Program, Anax has instituted a system for reporting suspected violations, a mechanism for discipline for violations, and a program to minimize the likelihood that substantial discretionary authority or responsibility will be granted to persons who can not be trusted with that authority or responsibility.

To that end, the Corporate Compliance Officer shall ensure that those positions with substantial discretionary authority or responsibility are identified. Within the bounds of applicable privacy standards, personnel applying for or being considered for functions with substantial discretionary authority or responsibility shall be screened. The screening should consist of such matters as verification of education and prior employment and a criminal record check. The records of current employees and crews should be checked periodically to ensure that these persons are performing in compliance with their responsibilities. Applicants for positions with substantial discretionary authority or responsibility who, through this screening process, are found to be untrustworthy will not be hired for such a position. Current personnel in positions with substantial discretionary authority or responsibility who are found to be untrustworthy will be reassigned or terminated at the earliest opportunity. While awaiting reassignment or termination, such personnel will be monitored closely.

D. Communication and Training

A critical aspect of the Anax General Corporate Policy and Maritime Environmental Protection Policy is the effective communication of the Maritime Compliance Program and related policies and procedures to all personnel. The Corporate Compliance Officer is responsible for establishing procedures to ensure that every employee and crew member is familiar with the Anax policies and the Maritime Compliance Program and endeavors to abide by them. These procedures include the following:

1. Every newly hired employee and crew member will be provided a copy of the Anax General Corporate Policy, the Maritime Environmental Protection Policy, the Maritime Compliance Program, and other policy documents relevant to his or her employment. Within 14 days of

receiving this material, the new employee and crew member must sign an acknowledgement stating that the employee or crew member has read and understands these policies and agrees to abide by them.

2. Each employee and crew member must annually sign an acknowledgement stating that he or she has reviewed the Anax General Corporate Policy, the Maritime Environmental Protection Policy, the Maritime Compliance Program, taken part in the Maritime Compliance Program, and intends to comply with their requirements.

The Corporate Compliance Officer is responsible for ensuring that these certifications are retained by the Company.

The Corporate Compliance Officer is responsible for overseeing and coordinating all training of personnel with respect to the Anax General Corporate Policy, the Maritime Environmental Protection Policy, and the Maritime Compliance Program. Training procedures shall, at a minimum, consist of the following:

All personnel will receive, review, and acknowledge their understanding of the Anax General Corporate Policy, the Maritime Environmental Protection Policy, the Maritime Compliance Program and relevant related policies.

Each supervisor will be responsible for ensuring that employees or crew members under his or her supervision receive training in the Anax General Corporate Policy, the Maritime Environmental Protection Policy, the Maritime Compliance Program, and relevant related policies on an annual basis. The Corporate Compliance Officer may assist in the preparation and presentation of these training seminars.

The Corporate Compliance Officer is responsible for documenting attendance of personnel at training sessions and retaining such records.

**F. Monitoring and Auditing**

Anax is committed to the policy that every employee and crew member has an obligation to report any suspected violation of the Anax General Corporate Policy, the Maritime Environmental Protection Policy, or the Maritime Compliance Program to his supervisor or, when appropriate, to the Corporate Compliance Officer. All supervisors must report any potential violation to the Corporate Compliance Officer. The Corporate Compliance Officer shall immediately notify, in writing, the Legal Counsel for Anax of all such reports and suspected violations. Reporting personnel may not be subject to any reprisal for a good faith report of a suspected violation of the Anax General Corporate Policy, the Maritime Environmental Protection Policy, or the Maritime Compliance Program. The Company also will establish and publicize a means for anonymous reporting of violations.

Anax is committed to establishing an environment that encourages and allows personnel to seek and receive prompt guidance before engaging in conduct that may violate the Anax General Corporate Policy, the Maritime Environmental Protection Policy, the Maritime Compliance Program, or any applicable federal law, rule or regulation. To achieve these objectives, the Corporate Compliance Officer is responsible for ensuring that the following practices and procedures are implemented and publicized in writing to all personnel:

Personnel may consult their supervisor or the Corporate Compliance Officer about any questions regarding the Anax General Corporate Policy, the Maritime Environmental Protection Policy, or the Maritime Compliance Program.

Personnel may report to their supervisors any violation of the Anax General Corporate Policy, the Maritime Environmental Protection Policy, the Maritime Compliance Program or applicable federal law, rule, or regulation. Supervisors who receive such reports from employees or crew members should immediately report the information to the Corporate Compliance Officer. Personnel may not be subject to any reprisal for a good faith report of a suspected violation of the Anax General Corporate Policy, the Maritime Environmental Protection Policy, Maritime Compliance Program, or applicable federal law, rule, or regulation. Personnel can, when appropriate, report suspected violations directly to the Corporate Compliance Officer.

The Corporate Compliance Officer is responsible for a prompt review of all reports received of suspected violations of the Anax

General Corporate Policy, the Maritime Environmental Protection Policy, Maritime Compliance Program, or applicable federal law, rule, or regulation. The Corporate Compliance Officer may request the Anax Legal Advisor to institute investigations of reported violations where further investigation is necessary.

The Corporate Compliance Officer will establish and publicize a system that permits anonymous reports of violations of the Anax General Corporate Policy, the Maritime Environmental Protection Policy, Maritime Compliance Program, or applicable federal law, rule, or regulation to the Corporate Compliance Officer. This system should also be available to answer questions regarding the Anax General Corporate Policy, the Maritime Environmental Protection Policy, or the Maritime Compliance Program.

F. Disciplinary Mechanisms

Anax shall promptly and properly document all reasons behind disciplinary actions taken against its personnel for violations of the Anax General Corporate Policy, the Maritime Environmental Protection Policy, or the Maritime Compliance Program. The Corporate Compliance Officer is responsible for ensuring that such documentation is included in the individuals' personnel files.

In determining appropriate disciplinary action to impose for a violation of the Anax General Corporate Policy, the Maritime Environmental Protection Policy, or the Maritime Compliance Program, in consultation with legal counsel and appropriate supervisory personnel, Management should consider the factors listed below, as appropriate:

1. The nature of the violation and the ramifications of the violation to Anax and its customers and business contacts.
2. Whether the individual was directly or indirectly involved in the violation.
3. Whether the violation was willful, negligent, or unintentional.
4. Whether the violation represented an isolated occurrence or a pattern of misconduct.
5. Whether the individual in question reported the violation.

6. Whether the individual withheld relevant or material information concerning the violation.
7. The degree to which the individual cooperated with the investigation.
8. Whether the violation consisted of the failure to supervise another individual who violated the Anax General Corporate Policy, the Maritime Environmental Protection Policy, or the Maritime Compliance Program and, if so, the extent to which the circumstances reflect inadequate supervision or lack of due diligence.
9. Whether the violation consisted of retaliation against another individual for reporting a violation or for cooperating with an investigation and, if so, the nature of such retaliation.
10. The disciplinary action previously imposed for similar violations.
11. The individual's previous violations, if any.

G. **Remedial Action**

After an offense has been detected, Anax will take all reasonable steps to respond appropriately to the offense and prevent further similar offenses - including any necessary modifications to its program to prevent and detect violations of law. The Corporate Compliance Officer shall be responsible for identifying any necessary modifications to the Maritime Compliance Program. Tools available in this regard include interviews of individual employees and crew members, focus group interviews with representative groups of employees and crew members, employee and crew member surveys, and analysis of existing program data. Program deficiencies and inadequacies identified through this process will be reported to the Board of Directors, along with recommendations for modifications to the Maritime Compliance Program.



## APPENDIX A

### Guidelines for an Effective Compliance Program

An "effective program to prevent and detect violations of law" means a program that has been reasonably designed, implemented, and enforced, so that it generally will be effective in preventing and detecting criminal conduct. Failure to prevent or detect the instant offense, by itself, does not mean that the program was not effective. The hallmark of an effective program to prevent and detect violations of law is that the organization exercised due diligence in seeking to prevent and detect criminal conduct by its employees, crew members, and other agents. Due diligence requires at a minimum that the organization must have taken the following types of steps:

- (1) The organization must have established compliance standards and procedures to be followed by its employees, crew members, and other agents that are reasonably capable of reducing the prospect of criminal conduct.
- (2) Specific individual(s) within high-level personnel of the organization must have been assigned overall responsibility to oversee compliance with such standards and procedures.
- (3) The organization must have used due care not to delegate substantial discretionary authority to individuals whom the organization knew, or should have known through the exercise of due diligence, had a propensity to engage in illegal activities.
- (4) The organization must have taken steps to communicate effectively its standards and procedures to all employees, crew members, and other agents, e.g., by requiring participation in training programs or by disseminating publications that explain in a practical manner what is required.
- (5) The organization must have taken reasonable steps to achieve compliance with its standards, e.g., by utilizing monitoring and auditing systems reasonably designed to detect criminal conduct by its employees, crew members, and other agents and by having in

place and publicizing a reporting system whereby employees, crew members, and other agents could report criminal conduct by others within the organization without fear of retribution.

- (6) The standards must have been consistently enforced through appropriate disciplinary mechanisms, including, as appropriate, discipline of individuals responsible for the failure to detect an offense. Adequate discipline of individuals responsible for an offense is a necessary component of enforcement; however, the form of discipline that will be appropriate will be case specific.
- (7) After an offense has been detected, the organization must have taken all reasonable steps to respond appropriately to the offense and prevent further similar offenses - including any necessary modifications to its program to prevent and detect violations of law.

The precise actions necessary for an effective program to prevent and detect violations of law will depend upon a number of factors. Among the relevant factors are:

Size of the organization – The requisite degree of formality of a program to prevent and detect violations of law will vary with the size of the organization: the larger the organization, the more formal the program typically should be. A larger organization generally should have established written policies defining the standards and procedures to be followed by its employees, crew members, and other agents.

Likelihood the certain offenses may occur because of the nature of the business – If because of the nature of an organization's business there is a substantial risk that certain types of offenses may occur, management must have taken steps to prevent and detect those types of offenses. For example, if an organization handles toxic substances, it must have established standards and procedures to ensure that those substances are properly handled at all times. If an organization employs sales personnel who have flexibility in setting prices, it must have established standards and procedures designed to prevent and detect

price-fixing. If an organization employs sales personnel who have flexibility to represent the material characteristics of a product, it must have established standards and procedures designed to prevent fraud.

Prior history of the organization – An organization's prior history may indicate types of offenses that it should have taken actions to prevent. Recurrence of misconduct similar to that which an organization has previously committed casts doubt on whether it took all reasonable steps to prevent such misconduct.

An organization's failure to incorporate and follow applicable industry practice or the standards called for by any applicable governmental regulation weighs against a finding of an effective program to prevent and detect violations of law.

U.S. Sentencing Guidelines, § 8A1.2, Commentary 3(k).

## APPENDIX B

### Duties of Corporate Compliance Officer

- Review and keep current with all applicable laws, regulations, standard operating procedures relevant to the Maritime Compliance Program;
- Review and approve appropriate standard operating procedures, operational checks and balances and management controls relevant to the Maritime Compliance Program;
- Maintain, for a minimum of five years, records related to the Maritime Compliance Program;
- Insure that evaluations of the Maritime Compliance Program are conducted on a periodic basis;
- Report on the implementation and effectiveness of the Maritime Compliance Program;
- Conduct periodic inspections and audits to identify problems and to recommend corrective actions;
- Assure that the Anax General Corporate Policy, the Maritime Environmental Protection Policy, and Maritime Compliance Program, as appropriate, are distributed to all third party contractors who perform services for or on behalf of the Company and to vendors who conduct significant business with the Company;
- Verify that programs and procedures exist for screening employees and crew members for propensity to engage in illegal activities. These include: verification of the employment application; screening of public records; and internal checks on existing employees and crew members;
- Verify that a reliable system of internal checks and balances exists to assure that no employee or crew member has complete autonomy in areas such as environmental or safety compliance, inventory control, purchasing, and disbursement of funds;
- Institute and maintain systems for reporting and investigating suspected violations of the Anax General Corporate Policy, the Maritime Environmental Protection Policy, and the Maritime Compliance Program as well as a method of reporting and memorializing events and protecting all applicable privileges.

## APPENDIX C

### Responding to Allegations of Noncompliance

#### Immediate Response Necessary

All personnel who are aware of a suspected noncompliance with of the Anax General Corporate Policy, the Maritime Environmental Protection Policy, the Maritime Compliance Program or related policies are responsible for reporting that information immediately to their supervisor or to the Corporate Compliance Officer. If the incident involves a discharge or suspected discharge (accidental or otherwise) into the waters of the United States, an immediate report shall be made to the U.S. Coast Guard.

The Corporate Compliance Officer shall consult with the Company's legal advisor regarding the various questions raised by a reported noncompliance with of the Anax General Corporate Policy, the Maritime Environmental Protection Policy, Maritime Compliance Program, or any applicable law, rule, or regulation. Among the issues that should be addressed when a noncompliance is reported are the following:

- Should an internal investigation be conducted?
- Should outside counsel conduct the investigation?
- Should a disclosure be made to the appropriate government agency?
- Do employees or crew members need separate counsel?
- Should the Company provide separate counsel for employees or crew members?
- Should a submission be made to the government regarding the facts and law at issue?

#### Investigations of Reports of Noncompliance

All personnel are expected to cooperate in the investigation of an alleged noncompliance with the Anax General Corporate Policy, the Maritime Environmental Protection Policy, the Maritime Compliance Program or applicable law, rule, or regulation. It is imperative, however, that even the preliminary investigation of a suspected noncompliance NOT be conducted without consulting with the Corporate Compliance Officer and seeking the assistance and guidance of counsel. Investigations may raise complicated legal issues and investigations conducted without the advice of counsel could result in the waiver of important privileges. Typically, reports of noncompliance may concern potential judicial, administrative or congressional proceedings and as such gathering of information should be performed under the supervision of counsel in anticipation of such potential proceedings in order to protect all applicable privileges. Moreover, since

the approach to an investigation will vary in accordance with the specific facts of the particular circumstance, it is essential that legal counsel, after considering the ramifications of all alternatives, advise the Company of its most appropriate response.

While investigations will vary in scope and substance, the following is a brief, general description of the framework in which the Company's legal counsel will likely assist in the conduct an investigation:

- Legal counsel and the Corporate Compliance Officer will attempt to discern which Company personnel are involved in or have any information regarding the alleged noncompliance and interview all such persons.
- Legal counsel will review with the Corporate Compliance Officer all relevant documents. Identifying all relevant documents is essential. A thorough investigation will include a review of all relevant papers, computer discs and tapes. The goal of the investigation should be to learn as much as possible about the scope of the activities at issue, any potential government investigation, and to assess the possibility of potential exposure to criminal and civil penalties.
- Because of potential conflict issues, legal counsel will inform either orally or in writing all Company personnel who will be interviewed of the specific terms under which the interview will be conducted. The interviewer should be certain to convey the following information to the individual:
  - Attorneys for the Company represent the Company.
  - The Company's lawyers remain free to use any disclosure, information, or leads to other information that the individual provides.
  - A determination should be made after the initial interview as to whether the individual should retain independent legal counsel.
  - The attorney-client privilege and the work product doctrine apply to the interview, but these privileges belong to the Company and not to the individual.
  - During these interviews, legal counsel will advise the individual that although the individual has the right to speak freely about any matter, the Company prefers that the individual not speak with anyone about the investigation other than those individuals conducting the investigation, or appropriate law enforcement or judicial officers where appropriate.
  - Under all circumstances it is essential that the individual be truthful in responding to questions at any interview.

- The Corporate Compliance Officer should consult with legal counsel to determine whether voluntary disclosure to a government agency or regulatory authority is appropriate.
- Following the completion of the investigation, the Corporate Compliance Officer should consult with legal counsel to determine whether any modification to the existing policies and procedures is warranted.

### **Contemporaneous Written Record of Noncompliance**

The officer on the ship assigned responsibility for ensuring that the ship and its crew operate in accordance with the Maritime Compliance Program shall ensure that a contemporaneous written record is made with regard to each noncompliance. The original of the contemporaneous written record shall be maintained on the ship for inspection by the independent auditing firm and the U.S. Coast Guard upon request. A copy shall be forwarded to the Corporate Compliance Officer.

### **Cooperating with a Government Investigation and Notifying Company Personnel of the Existence of Government Investigation**

- In general, with respect to government investigations, it is the Company's policy to cooperate with the government. Because the Company should act only with the advice of its legal counsel in these matters, all efforts at cooperating with the government are best coordinated by legal counsel.
- Depending upon the circumstances, it may be appropriate to inform Company personnel that the government is conducting an investigation of certain matters and that government investigators may wish to interview individuals in connection with the investigation. Also, the Company may wish to inform its personnel that it has arranged for an attorney to be available to provide advice to its personnel (although not necessarily to represent them in the investigation) as to the nature of the investigation, the purpose of the government interview, and the individual's rights and obligations in connection with such an interview.
- The Company should state that, while it is the individual's right to deal directly with government investigators without legal counsel, the Company believes it is in the individual's best interests to confer with legal counsel prior to doing so.

## APPENDIX D

### SUMMARY OF SELECTED FEDERAL CRIMINAL LAWS

This appendix is designed to give a brief practical description of the major federal criminal statutes that may apply to the maritime operations of Anax. This appendix is not intended to be an exhaustive or comprehensive review of the federal criminal statutes. For more information, you should contact the Corporate Compliance Officer.

#### General Provisions

##### False Statements

The major federal statute governing false statements is 18 U.S.C. § 1001. The statute applies to three separate offenses:

- falsifying, concealing or covering up a material fact by a trick, scheme, or device;
- making false, fictitious, or fraudulent statements or representations; and
- making or using any false documents or writing.

Violations of Section 1001 are punishable by a fine of not more than \$10,000 or imprisonment for not more than five years, or both. Courts generally agree that Section 1001 covers both oral and written statements. The statement may be sworn or unsworn, signed or unsigned, voluntary or required by law, and need not be made directly to the federal government.

This offense encompasses a wide variety of actions including such examples as failing to make complete disclosure on a federal application form, omitting relevant facts in a financial statement, transferring inspection stamps, presenting to a federal official a record or logbook known to contain a false or inaccurate material entry even when the entry was made outside the jurisdiction of the United States, and oral false statements to customs officials and other government agents.

##### Conspiracy

The general federal conspiracy statute, 18 U.S.C. § 371, proscribes combinations of two or more persons to commit any offense against the United States, to defraud the United States, or to defraud any government agency. The susceptibility of Section 371 to broad application has made conspiracy one of the most commonly charged offenses in the prosecution of federal crime.



Conspiracy to commit any offense against the United States denotes an *agreement* to violate any criminal federal law. Conspiracy is composed of four major elements. A conspiracy exists where the conspirators:

- make an agreement;
- to achieve an illegal goal;
- with knowledge of the existence of and with actual participation in the conspiracy; and
- at least one conspirator performs an overt act in furtherance of the illegal goal.

### **Impeding Federal Law Enforcement Officers**

It is a violation of federal law to assault or otherwise impede federal law enforcement officers in the performance of their duties. 18 U.S.C. § 111.

## **Operational Provisions**

### **Arrival, Reporting, Entry, and Clearance Requirements**

Intentional failure by the master to comply with the Customs Service arrival, reporting, entry, and clearance requirements is a criminal offense. 19 U.S.C. § 1436.

### **Negligent or Impaired Operations**

Operation of a vessel on the waters of the United States in a grossly negligent manner so as to endanger the life, limb, or property of a person is a criminal offense. 46 U.S.C. § 2302(b). Operation of a vessel on the waters of the United States while under the influence of alcohol or a dangerous drug in violation of a law of the United States is a criminal offense. 46 U.S.C. § 2302(c).

### **Witness Tampering**

Attempting to coerce a witness or to induce a witness to testify falsely or to induce a witness to leave the jurisdiction of the United States in connection with a marine casualty is a criminal offense. 46 U.S.C. § 6306.

### **Sending an Unseaworthy Vessel to Sea**

Sending or attempting to send a vessel of the United States to sea in an unseaworthy state that is likely to endanger the life of an individual is a criminal offense. 46 U.S.C. § 10908.

## **Ports and Waterways Safety**

The willful and knowing violation of the Ports and Waterways Safety Act (33 U.S.C. §§ 1221-1236) or a regulation issued thereunder (33 CFR Parts 160-168) is a criminal offense. 33 U.S.C. § 1232(b). These provisions relate generally to vessel operating requirements, port and waterfront safety, and conditions for port entry.

## **Environmental Provisions**

### **Federal Water Pollution Control Act**

Pollution of the waters of the United States by spills of oil and hazardous substances (or by other means) is prohibited. Where the pollution is intentional or negligent, criminal penalties may be imposed in accordance with 33 U.S.C. § 1319. The negligence standard applied under this statute is ordinary (civil) negligence and may include the negligent failure to comply with applicable federal regulations or industry standards.

Release into the waters of the United States of oil or hazardous substances must be promptly reported to the federal government. Failure to make the required report or the submittal of a false report may lead to the imposition of criminal penalties in accordance with 33 U.S.C. § 1321.

### **Comprehensive Environmental Response, Compensation, and Liability Act**

Release into the environment of the United States of hazardous substances must be promptly reported to the federal government. Failure to make the required report or the submittal of a false report may lead to the imposition of criminal penalties in accordance with 42 U.S.C. § 9603.

### **Refuse Act of 1899**

The Refuse Act of 1899, 33 U.S.C. § 407, makes it generally unlawful to throw, discharge, or deposit, or cause suffer, or procure to be thrown, discharged, or deposited any refuse matter of any kind or description into navigable waters of the United States. Criminal penalties may be imposed for violations of this provision, without regard to the intent of the individual.

## **Migratory Bird Treaty Act**

It is a violation of U.S. law to kill or injure a migratory bird. Most birds in the United States are considered to be migratory and within the protection of this statute. Criminal penalties may be imposed for violations of this provision, without regard to the intent of the individual. 16 U.S.C. § 703.

## **Marine Mammal Protection Act**

It is a violation of U.S. law to kill or injure a marine mammal. Criminal penalties may be imposed for knowing violations of this provision. 16 U.S.C. § 1375.

## **Act to Prevent Pollution from Ships**

It is a violation of U.S. law to not comply with the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78), Annex V of the Protocol on Environmental Protection to the Antarctic Treaty (Antarctic Protocol 1991), the Act to Prevent Pollution from Ships (33 U.S.C. §§ 1901-1915), or the regulations promulgated thereunder (33 CFR Part 151, Subpart A). Criminal penalties may be imposed for knowing violations of this provision. 33 U.S.C. § 1908(a).

## **Ocean Dumping**

It is a violation of U.S. law to, without a permit or as otherwise authorized by law, transport material from the United States for the purpose of dumping it into ocean waters or to dump material transported from outside the United States into the territorial sea or contiguous zone of the United States. Criminal penalties may be imposed for knowing violations of this provision. 33 U.S.C. § 1415(b).

## **Ballast Water Management**

It is a violation of U.S. law to fail to comply with regulations promulgated by the U.S. Coast Guard regarding ballast water management for vessels entering the Great Lakes or the Hudson River north of the George Washington Bridge. It is also a violation of U.S. law to fail to submit ballast water management reports for any vessel entering U.S. waters after operating outside the U.S. Exclusive Economic Zone. Criminal penalties may be imposed for knowing violations of these requirements. 16 U.S.C. § 4711(g)(2).

## APPENDIX E

### SUMMARY OF PERTINENT ENVIRONMENTAL REQUIREMENTS

This appendix is designed to give a brief practical description of the pertinent environmental requirements as they relate to the operation of Anax vessels in waters subject to the jurisdiction of the United States. Specific questions should be brought to the attention of the Corporate Compliance Officer or the Company's Legal Advisor.

#### Discharges into U.S. Waters

##### 1. Discharge Prohibition

Discharge of oil or hazardous substances into the waters of the United States is prohibited. (33 U.S.C. § 1321(b)(3)). Exceptions are provided for discharges of oil from a properly functioning vessel engine and discharges of oil permitted under MARPOL 73/78, Annex I. (40 CFR § 110.5 and 33 CFR § 151.10). The waters of the United States include the internal waters (e.g., bays, lakes, sounds, and rivers), the territorial sea of the United States out to a distance of three nautical miles from the baseline from which the territorial sea is measured, the contiguous zone of the United States which extends from the outer edge of the territorial sea to a distance of twelve miles from the baseline, and, for operations in connection therewith, the exclusive economic zone which extends to a distance of 200 miles from the baseline. (33 U.S.C. § 1321(b)(3)). The baseline, in most instances, is the coastline at mean low tide.

##### 2. Reporting of Discharges

The Master, as soon as he or she has knowledge of any unauthorized discharge of oil or a hazardous substance from the vessel into waters of the United States, must immediately notify the U.S. Coast Guard. (33 U.S.C. § 1321(b)(5)). The Coast Guard should be notified through the National Response Center at telephone number 1-800-424-8802. If it is not practicable to contact the National Response Center, the local Coast Guard Marine Safety Office (MSO) should be notified by the most rapid means available. (40 CFR § 110.6 and 33 CFR § 153.203).

Certain incidents involving discharges or probable discharges must be reported even though they are permitted by MARPOL 73/78. These incidents include those permitted by MARPOL 73/78 by virtue of the fact that it is for the safety of the ship or saving life at sea or it results from damage to the ship or its equipment. (MARPOL 73/78, Protocol I and 33 CFR § 151.15(e)).

### 3. Removal of Discharges

It is the duty of the party responsible for the unauthorized discharge of oil or a hazardous substance into waters of the United States to remove the discharge to the maximum extent feasible. (33 U.S.C. § 1321(c)(5)). Removal action must be performed in accordance with the National Contingency Plan, the applicable Area Contingency Plan, and the ship's Vessel Response Plan. (33 U.S.C. § 1321(c)(3)). Employees, crew members, and agents of Anax shall, during the removal action, comply with all proper orders and directions of and provide all reasonable cooperation and assistance to the Coast Guard On-Scene Coordinator or other appropriate government official. (33 U.S.C. §§ 1321(b)(7)(B) and 2703(c)).

#### Oil Record Book

### 4. Recording of Fuel Oil Transfers

Entries shall be made in the Oil Record Book on each occasion, on a tank to tank basis if appropriate, whenever any of the following machinery space operations take place on the ship:

- (1) Ballasting or cleaning of fuel oil tanks;
- (2) Discharge of dirty ballast or cleaning water from fuel oil tanks;
- (3) Disposal of oily residues (sludge); and
- (4) Discharge overboard or disposal otherwise of bilge water that has accumulated in machinery spaces. (33 CFR § 151.25(d))

### 5. Recording of Oil Cargo Transfers

Entries shall be made in the Oil Record Book on each occasion, on a tank to tank basis if appropriate, whenever any of the following cargo/ballast operations take place on the ship:

- (1) Loading of oil cargo;
- (2) Internal transfer of oil cargo during voyage;
- (3) Unloading of oil cargo;
- (4) Ballasting of cargo tanks and dedicated clean ballast tanks;
- (5) Cleaning of cargo tanks including crude oil washing;
- (6) Discharge of ballast except from segregated ballast tanks;
- (7) Discharge of water from slop tanks;
- (8) Closing of all applicable valves or similar devices after slop tank discharge operations;

- (9) Closing of valves necessary for isolation of dedicated clean ballast tanks from cargo and stripping lines after slop tank discharge operations; and
- (10) Disposal of residues. (33 CFR § 151.25(e)).

## 6. Recording of All Emergency, Accidental, or Other Exceptional Discharges

In the event of an emergency, accidental or other exceptional discharge of oil or oily mixture, a statement shall be made in the Oil Record Book of the circumstances of, and the reasons for, the discharge. (33 CFR § 151.25(g)).

## 7. Prompt Recording of Entries

Each operation required to be recorded in the Oil Record Book shall be fully recorded therein without delay so that all the entries in the book appropriate to that operation are completed. Each completed operation shall be signed by the person or persons in charge of the operations concerned and each completed page shall be signed by the Master. (33 CFR § 151.25(h)).

## 8. Availability for Inspection

The Oil Record Book shall be kept in such a place as to be readily available for inspection at all reasonable times and shall be kept on board the ship. The Master shall be responsible for the maintenance of the Oil Record Book. The Oil Record Book shall be maintained on board for not less than three years. (33 CFR § 151.25(i), (j), and (k)).

## IOPP Certificate

### 9. IOPP Certificate

The International Oil Pollution Prevention (IOPP) Certificate for the ship, issued in accordance with MARPOL 73/78, Annex 1, Regulation 5, shall be maintained onboard the ship at all times and shall be kept valid. (33 CFR § 151.19).

### 10. Port State Control Inspections

While at a port or terminal under the jurisdiction of the United States, the ship is subject to inspection by the Coast Guard:

- (1) To determine that a valid IOPP Certificate is on board and that the condition of the ship and its equipment corresponds substantially with the particulars of the IOPP Certificate;

- (2) To determine that evidence of compliance with MARPOL 73/78, as required by 33 CFR § 151.21 is on board and that the condition of the ship and its equipment corresponds substantially with the particulars of this evidence of compliance;
- (3) To determine whether the ship has been operating in accordance with and has not discharged any oil or oily mixtures in violation of the provisions of MARPOL 73/78 or 33 CFR Subchapter O;
- (4) To determine whether the ship has discharged oil or oily mixtures anywhere in violation of MARPOL 73/78, upon request from a party to MARPOL 73/78 for an investigation when the requesting party has furnished sufficient evidence to support a reasonable belief that a discharge has occurred.
- (5) To determine whether the ship is in compliance with applicable international and U.S. requirements, including, but not limited to testing machinery and systems, assuring that the ship is properly manned and the crew is properly trained, and other safety aspects of the operation of the ship.

If the ship does not comply with applicable U.S. requirements or where the condition of the ship or its equipment does not substantially agree with the particulars of the IOPP Certificate or other required documentation, it may be detained by order of the Coast Guard Captain of the Port (COTP) or Officer in Charge, Marine Inspection (OCMI), at the port or terminal where the violation is discovered until, in the opinion of the detaining authority, the ship can proceed to sea without presenting an unreasonable threat of harm to the marine environment. The detention order may authorize the ship to proceed to the nearest appropriate available shipyard rather than remaining at the place where the violation was discovered.

An inspection under this section may include an examination of the Oil Record Book, the oil content meter continuous records, and a general examination of the ship. A copy of any entry in the Oil Record Book may be made and the Master of the ship may be required to certify that the copy is a true copy of such entry. (33 CFR § 151.23).

The Master and crew shall cooperate fully with the Port State Control inspection conducted by personnel of the U.S. Coast Guard.

### Shipboard Oil Pollution Emergency Plan (SOPEP)

#### 11. Contents of SOPEP

The Shipboard Oil Pollution Emergency Plan (SOPEP) shall be written in the working language of the master and officers of the ship. The SOPEP shall consist at least of:

- (1) The procedure to be followed by the master to report an oil pollution incident;
- (2) The list of authorities or persons to be contacted in the event of an oil pollution incident;
- (3) A detailed description of the action to be taken immediately by persons on board to reduce or control the discharge of oil following the incident; and
- (4) The procedures and point of contact on the ship for coordinating shipboard action with national and local authorities in combating the pollution.

## **12. Retention and Availability of SOPEP**

The SOPEP shall be retained on the ship. It shall be amended as necessary to remain current. The SOPEP shall be made available to the U.S. Coast Guard boarding officer for inspection upon request. (MARPOL 73/78, Annex I, Regulation 26 and 33 CFR § 151.29).

### **Disposal of Garbage and Waste**

## **13. Maintenance of Garbage Record Book**

The Master shall ensure that a written Garbage Record Book is maintained on the ship of each of the following garbage discharge or disposal operations:

- (1) Discharge overboard.
- (2) Discharge to another ship.
- (3) Discharge to a reception facility.
- (4) Incineration on the ship.

## **14. Information in Garbage Record Book**

The Garbage Record Book must contain the following information on each garbage discharge or disposal operation:

- (a) The date and time of the operation.
- (b) If the operation was conducted at a port, the name of the port.
- (c) If the operation was not conducted at a port, the latitude and longitude of the location where the operation was conducted and the estimated distance of that location from shore. If the operation involved off-



loading to another ship, the identity of the receiving ship by name and official number.

- (d) The amount of garbage involved, described by volume in cubic meters.
- (e) For discharges into the sea, a description of the contents of the garbage, described by the following categories:
  - (1) Plastic material.
  - (2) Floating dunnage, lining, or packing material.
  - (3) Ground paper products, rags, glass, metal, bottles, crockery, or other similar garbage.
  - (4) Unground paper products, rags, glass, metal, bottles, crockery, or other similar garbage.
  - (5) Victual wastes.
  - (6) Incinerated ash.
  - (7) Incinerated plastic residue.

#### **15. Prompt Recording of Entries in Garbage Record Book**

The garbage discharge or disposal operation entry in the Garbage Record Book must be prepared at the time of the operation, certified as correct by the master, maintained on the ship for two years following the operation, and made available for inspection by the U.S. Coast Guard boarding officer upon request. (MARPOL 73/78, Annex V, Regulation 9(3)).

#### **16. Waste Management Plan**

The Master shall ensure that the ship is not operated unless a Waste Management Plan written in the working language of the crew is on the ship and that each person handling garbage follows the plan. The Waste Management Plan must provide for the discharge of garbage by means that meet the requirements of MARPOL 73/78, Annex V, the Act to Prevent Pollution from Ships and its implementing regulations, describe procedures for collecting, processing, storing, and discharging garbage (including the use of the equipment on board), and designate the person who is in charge of carrying out the plan.

#### **17. Discharges of Garbage into U.S. Navigable Waters Prohibited**

Discharge of garbage into the navigable waters of the United States is prohibited. (33 CFR § 151.66). The navigable waters of the United States includes the internal waters and those coastal waters within three nautical miles of the shoreline.

#### **18. Discharges of Plastic into U.S. Navigable Waters Prohibited**

No person on board the ship may discharge into the navigable waters of the United States plastic or garbage mixed with plastic, including, but not limited to, synthetic

ropes, synthetic fishing nets, and plastic garbage bags. All garbage containing plastics requiring disposal must be discharged ashore or incinerated. (33 CFR § 151.67). The disposal into the sea of all plastics, including but not limited to, synthetic ropes, synthetic fishing nets, and plastic garbage bags, is prohibited. (MARPOL 73/78, Annex V, Regulation 3(1)(a)).

#### **19. Disposal of Garbage Outside Special Areas**

When operating outside of a special area, the ship may not discharge, into the sea, garbage that is separated from plastic, if the distance from nearest land is less than:

- (a) 25 nautical miles for dunnage, lining and packing materials that float; or
- (b) 12 nautical miles for victual wastes and all other garbage including paper products, rags, glass, metal, bottles, crockery and similar refuse, except that, such garbage may be discharged outside of three nautical miles from nearest land after it has been passed through a qualifying grinder or comminuter. A grinder or comminuter qualifies under this provision if garbage processed through it is required to pass through a screen with openings no greater than 25 mm.

Mixtures of garbage having different discharge requirements must be either retained on board for later disposal ashore or discharged in accordance with the more stringent requirement prescribed above. (MARPOL 73/78, Annex V, Regulation 3(2) and 33 CFR § 151.69).

#### **20. Exceptions regarding Garbage Disposal**

The restrictions with regard to the discharge of garbage at sea do not apply to discharges of garbage from a ship for the purpose of securing the safety of the ship and those on board or saving life at sea or to the escape of garbage resulting from damage to a ship or its equipment, if all reasonable precautions have been taken before and after the occurrence of the damage, to prevent or minimize the escape. (MARPOL 73/78, Annex V, Regulation 6 and 33 CFR § 151.77).

#### **21. Garbage Disposal Placards**

The ship shall display placards that notify the crew of the garbage disposal methods required by Annex V to MARPOL 73/78. The placards shall be written in the official language of the flag state and in English. (MARPOL 73/78, Annex V, Regulation 9(1)). The placards should be displayed in prominent locations and in sufficient numbers so that they can be read by the crew. Locations for the placards should include food service facilities, garbage handling spaces, and common spaces

on deck. Each placard should be at least nine inches wide by four inches high, made of a durable material, and lettered with letters at least one-eighth inch high. The placard should notify the reader of the following:

The discharge of plastic or garbage mixed with plastic into any waters is prohibited.

- (1) The discharge of all garbage is prohibited in the navigable waters of the United States and, in all other waters, within three nautical miles of the nearest land.
- (2) The discharge of dunnage, lining, and packing materials that float is prohibited within 25 nautical miles of the nearest land.
- (3) Other unground garbage may be discharged beyond 12 nautical miles from the nearest land.
- (4) Other garbage ground to less than one inch may be discharged beyond three nautical miles of the nearest land.
- (5) A person who violates the above requirements by discharging garbage in the navigable waters of the United States is liable for a civil penalty for each violation, and the criminal penalties of a class D felony.

## **22. Garbage Disposal Ashore in the United States**

The Master shall notify the port or terminal, at least 24 hours before entering the U.S. port or terminal, of the name of the ship and the estimated volume of garbage requiring disposal, if any of the following types of garbage are to be discharged:

- (a) Garbage regulated by the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture.
- (b) Medical wastes.
- (c) Hazardous wastes. (33 CFR § 151.65).

The details regarding garbage disposal ashore are located in the Waste Management Plan.

## **Ballast Water Management**

### **23. Ballast Water Management Plan.**

The ship's Ballast Water Management Plan shall identify all ballast tanks and holds on the ship, the volume of each, and the total volume of ballast water the ship is capable of carrying. The Plan shall also specify the manner for loading and unloading ballast water to and from each ballast tank and hold, the method for conducting ballast water exchange for each ballast tank or hold, and the method for conducting alternative ballast water treatment for each ballast tank or hold (if applicable). Included therein shall be a discussion of safety procedures to be

exercised and risks to be minimized during ballast water exchange or treatment. The Ballast Water Management Plan shall be made available for inspection by the U.S. Coast Guard boarding officer upon request.

The ship shall keep on board a copy of the ballast water guidelines promulgated by the International Maritime Organization (IMO) entitled: Guidelines for the control and Management of Ship's Ballast Water to Minimize the Transfer of Aquatic Organisms and Pathogens [Res. A868(20)].

#### **24. Ballast Water Management Recordkeeping**

If the ship is carrying ballast water into the United States after operating beyond the U.S. or Canadian EEZ, the Master shall keep in written form all records required by regulations promulgated by the U.S. Coast Guard.

#### **25. Voluntary Ballast Water Management Guidelines**

Whenever possible, the Master is to take the voluntary precautions to minimize the uptake and the release of harmful aquatic organisms, pathogens, and sediments recommended by the International Maritime Organization and the U.S. Coast Guard. (33 CFR § 151.2035).

#### **26. Mandatory Ballast Water Management Requirements**

If the ship is bound for the Great Lakes or the Hudson River north of the George Washington Bridge and the ship has operated beyond the U.S. or Canadian EEZ during any part of its voyage, regardless of intermediate ports of calls within the waters of the United States or Canada, the master shall comply with the mandatory ballast water management requirements promulgated by the U.S. Coast Guard.

If the ship called at neither the Great Lakes nor the Hudson River north of the George Washington Bridge, then before the ship departs from its first port of call in the waters of the United States, the Master shall submit ballast water management reports in accordance with requirements promulgated by the U.S. Coast Guard.

#### **27. Continued Applicability of Other Laws**

The ballast water management program does not authorize the discharge of oil or noxious liquid substances (NLS) in a manner prohibited by United States or international laws or regulations. Ballast water carried in any tank containing a residue of oil, NLS, or any other pollutant must be discharged in accordance with the applicable regulations. This ballast water management program also does not affect or supersede any requirement or prohibition pertaining to the discharge of

ballast water into the waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 - 1376). [33 CFR § 151.2040].

State and local governments in the United States may enact more stringent requirements with regard to ballast water management. (16 U.S.C. § 4725).

#### **28. Exception for Innocent Passage**

If the ship is merely traversing the territorial sea of the United States (i.e., not entering or departing a U.S. port, or not navigating the internal waters of the U.S.), it is exempt from the mandatory ballast water management and recordkeeping requirements noted above. However, the Master shall not, except in an emergency, discharge ballast water into the waters of the United States unless the vessel has followed the voluntary guidelines noted above. (33 CFR § 151.2015).

#### **29. Ballast Water Management Compliance Monitoring and Enforcement**

The U.S. Coast Guard boarding officer may take samples of the ship's ballast water and sediment, examine documents, and make other appropriate inquiries to assess the ship's compliance with the above provisions. The master shall cooperate fully with the compliance monitoring and enforcement efforts of the U.S. Coast Guard and shall make available to the Coast Guard the Recordkeeping information and Ballast Water Management Plan noted above upon request. (33 CFR § 151.2050).

### **Pollution Prevention – Vessel Equipment**

#### **30. Discharge Removal Equipment**

The ship shall carry appropriate equipment and supplies for the containment and removal of on-deck oil cargo spills of at least 12 barrels, as required by regulations promulgated by the U.S. Coast Guard. During cargo transfer operations, the discharge removal equipment and supplies must remain ready for immediate use. (33 CFR § 155.205).

#### **31. Internal Cargo Transfer Capability**

The ship shall carry suitable hoses and reducers for internal transfer of cargo to tanks or other spaces within the cargo block, unless the ship's installed cargo piping system is capable of performing this function. (33 CFR § 155.225).

#### **32. Emergency Towing Capability**

An emergency towing arrangement shall be fitted at both ends on board the ship. The design and construction of the towing arrangement shall be in accordance with IMO resolution MSC.35(63). (33 CFR § 155.235).

### **33. Damage Stability Information**

Damage stability and residual structural strength calculation programs, as required by regulations promulgated by the U.S. Coast Guard, for the ship will be prearranged in order that prompt access to this computerized, shore-based information may be obtained on a 24-hour basis. Vessel baseline strength and stability characteristics must be pre-entered into such programs and be consistent with the ship's existing configuration. (33 CFR § 155.240).

### **34. Containment of Oil Cargo Discharges**

The ship must have arrangements for the containment of oil cargo discharges as required by regulations promulgated by the U.S. Coast Guard. (33 CFR § 155.310).

### **35. Fuel Oil and Bulk Lubricating Oil Discharge Containment**

The ship must have a fixed container or enclosed deck area under or around each fuel oil or bulk lubricating oil tank vent, overflow, and fill pipe, that has a capacity of at least one barrel. (33 CFR § 155.320).

### **36. Bilge Slops/Fuel Oil Tank Ballast Water Discharges**

The ship shall be equipped with oily-water separating equipment and other arrangements for handling bilge slops and fuel oil tank ballast water discharges in accordance with requirements promulgated by the IMO and the U.S. Coast Guard. The Master shall ensure that the bilge monitor continuous record is maintained on board for not less than three years. (33 CFR § 155.370).

### **37. Oily-Water Separating Equipment, Bilge Alarm, and Bilge Monitoring Equipment**

The oily-water separating equipment, bilge alarms, and bilge monitors on the ship must be approved under 46 CFR § 162.050 or be listed in the current International Maritime Organization (IMO) Marine Environment Protection Committee (MEPC) Circular summary of MARPOL 73/78 approved equipment. (33 CFR § 155.380).

### **38. Standard Discharge Connections**

The ship shall be fitted with a standard discharge shore connection, for the discharge to reception facilities, of oily wastes from machinery space bilges or fuel

oil tank ballast water in conformance with the requirements of MARPOL 73/78, Annex I, Regulation 19. (33 CFR § 155.430).

**39. Segregation of Fuel Oil and Water Ballast**

No ballast water may be carried in any fuel oil tank, except in conformance with the provisions of MARPOL 73/78, Annex I, Regulation 14. (33 CFR § 155.440).

**40. Placard regarding Prohibition of Oil Discharge**

While operating in waters subject to the jurisdiction of the United States, the ship shall have a placard of at least 5 by 8 inches, made of durable material fixed in a conspicuous place in each machinery space, or at the bilge and ballast pump control station, stating the following in the language or languages understood by the crew:

Discharge of Oil Prohibited

The Federal Water Pollution Control Act prohibits the discharge of oil or oily waste into or upon the navigable waters of the United States, or the waters of the contiguous zone, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States, if such discharge causes a film or discoloration of the surface of the water or causes a sludge or emulsion beneath the surface of the water. Violators are subject to substantial civil penalties and/or criminal sanctions including fines and imprisonment.

(33 CFR § 155.450).

**41. Prohibited Spaces for Carriage of Oil**

Oil or hazardous material must not be carried in the forepeak tank or any tank forward of the collision bulkhead. (MARPOL 73/78, Annex I, Regulation 14(4) and 33 CFR § 155.470).

**42. Overfill Devices**

The ship shall have overfill devices and related equipment in accordance with requirements promulgated by the U.S. Coast Guard. (33 CFR § 155.480).

**Pollution Prevention – Transfer Personnel and Procedures**

**43. Designation of Person in Charge of Transfer**

The Master shall designate, either by name or by position in the crew, the person in charge (PIC) of each transfer of fuel oil and cargo oil to or from the vessel and of each tank-cleaning. (33 CFR § 155.700).

#### **44. Qualifications of Person in Charge**

No one will be designated as a PIC unless he or she has the qualifications specified in regulations promulgated by the U.S. Coast Guard. (33 CFR § 155.710).

#### **45. Contents of Letter of Designation**

The PIC letter of instruction must designate the holder as a person-in-charge of the transfer of oil and state that the holder has received sufficient formal instruction to ensure his or her ability to safely and adequately carry out the duties and responsibilities of the PIC with respect to transfers and Declarations of Inspection. (33 CFR § 155.715).

#### **46. Transfer Procedures**

Written transfer procedures shall be maintained for transferring oil in bulk:

- (a) To or from the vessel; and
- (b) From tank to tank within the vessel. (33 CFR § 155.720).

#### **47. Compliance with Transfer Procedures**

The transfer procedures shall be kept current. Vessel personnel shall be required to use the transfer procedures for each transfer operation. (33 CFR § 155.730).

#### **48. Availability of Transfer Procedures**

The transfer procedures must be:

- (a) Available for inspection by the U.S. Coast Guard whenever the vessel is in operation in waters subject to the jurisdiction of the United States;
- (b) Legibly printed in a language or languages understood by personnel engaged in transfer operations; and
- (c) Permanently posted or available at a place where the procedures can be easily seen and used by members of the crew when engaged in transfer operations. (33 CFR § 155.740).

#### **49. Contents of Transfer Procedures**

The transfer procedures must contain, either in the order listed or by use of a cross-reference index page, the provisions specified in regulations promulgated by the U.S. Coast Guard. (33 CFR § 155.750).



**50. Amendment of Transfer Procedures**

The transfer procedures shall be amended as required by the U.S. Coast Guard. (33 CFR § 155.760).

**51. Draining into Bilges Prohibited**

No person may intentionally drain oil or hazardous material from any source into the bilge of the ship. (33 CFR § 155.770).

**52. Maximum Cargo Level of Oil**

No cargo tank on the ship may be filled with oil higher than:

- (1) 98.5 percent of the cargo tank volume; or
- (2) The level at which the overfill alarm is set. (33 CFR § 155.775).

**53. Emergency Shutdown**

The ship shall have on board an emergency means to enable the person in charge of a transfer operation to a facility, to another vessel, or within the vessel to stop the flow of oil. The means to stop the flow may be a pump control, a quick-acting, power actuated valve, or an operating procedure. If an emergency pump control is used, it must stop the flow of oil if the oil could siphon through the stopped pump. The means to stop the flow must be operable from the cargo deck, cargo control room, or the usual operating station of the person in charge of the transfer operation. (33 CFR § 155.780).

**54. Communications**

During vessel to vessel transfers, the ship shall have a means that enables continuous two-way voice communication between the persons in charge of the transfer operations on both vessels. The ship and the other vessel involved in the transfer must have a means, which may be the communication system itself, that enables a person on board each vessel to effectively indicate his desire to use the means of communication. The means of communication must be usable and effective in all phases of the transfer operation and all conditions of weather. Portable radio devices used as a means of communication during the transfer of flammable or combustible liquids must be intrinsically safe. (33 CFR § 155.785).

**55. Deck Lighting**

The ship, while conducting transfer operations between sunset and sunrise, shall have deck lighting that complies with regulations promulgated by the U.S. Coast Guard. (33 CFR § 155.790).

#### **56. Transfer Hoses**

Hoses used to transfer oil must conform to regulations promulgated by the U.S. Coast Guard. (33 CFR §§ 155.800 and 154.500).

#### **57. Closure Devices**

Except for new, unused hose, each end of each transfer hose on board the ship which is not connected for the transfer of oil must be blanked off with butterfly valves, wafer-type resilient seated valves, blank flanges, or other means acceptable to the U.S. Coast Guard. (33 CFR § 155.805).

#### **58. Tank Vessel Security**

When the ship contains more oil than the normal clingage and unpumpable bilge or sump residues in any cargo tank, the Master shall maintain surveillance of the ship by using a person who is responsible for the security of the vessel and for keeping unauthorized persons off the vessel. (33 CFR § 155.810).

#### **59. Tank Vessel Integrity**

The ship when underway or at anchor in U.S. waters shall maintain tank vessel integrity by operating in compliance with pertinent regulations promulgated by the U.S. Coast Guard. (33 CFR § 155.815).

#### **60. Transfer Records**

The Master shall ensure that the oil transfer records required by the U.S. Coast Guard are maintained on the ship and made available to the U.S. Coast Guard upon request. (33 CFR § 155.820).

#### **OPA 90 Vessel Response Plan**

#### **61. Approved Vessel Response Plan Required**

The ship shall not conduct operations in waters subject to the jurisdiction of the United States unless it has on board a valid Vessel Response Plan that has been prepared in accordance with the Oil Pollution Act of 1990 (OPA 90) and is approved by the U.S. Coast Guard. (33 CFR Part 155, Subpart D).

**62. Removal Actions in accordance with Vessel Response Plan**

Oil spill removal operations shall be conducted in accordance with the approved OPA 90 Vessel Response Plan unless deviation therefrom is authorized by the U.S. Coast Guard. (33 U.S.C. § 1321(c)(3)(B)).

**Oil Transfer Operations**

**63. Compliance with Suspension Order**

The Master shall fully comply with any suspension order that has been issued by the U.S. Coast Guard. (33 CFR § 156.113).

**64. Person in Charge: Limitations**

The Person in Charge (PIC) of transfer operations on the ship may not serve as the PIC for another vessel or for a facility while the ship is engaged in transfer operations with another vessel or a facility. (33 CFR § 156.115).

**65. Requirements for Transfer**

Transfers of oil shall be conducted in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 156.120).

**66. Stoppage during Discharge Cleanup**

The transfer operation shall be stopped by the PIC whenever oil or hazardous material from any source is discharged:

- (1) In the transfer operation work area; or
- (2) Into the water or upon the adjoining shoreline in the transfer area.

Except as authorized by the U.S. Coast Guard, the transfer operation may not be resumed after it has been stopped due to a discharge unless:

- (1) The oil or hazardous material discharged in the transfer operation work area is cleaned up; and
- (2) The oil or hazardous material discharged into the water or upon the adjoining shoreline is cleaned up, or is contained and being cleaned up. (33 CFR § 156.125).

**67. Connection for Transfer Operations**

Connections of hoses and couplings for oil transfer operations shall be made in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 156.130).

**68. Declaration of Inspection**

No oil transfer operations will be made before the Declaration of Inspection form has been completed in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 156.150).

**69. Supervision by Person in Charge**

Oil transfer operations on the ship will be supervised by the Person in Charge as required by regulations promulgated by the U.S. Coast Guard. (33 CFR § 156.160).

**70. Equipment Tests and Inspections**

Equipment used in oil transfer operations on the ship shall be tested and inspected in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 156.170).

**Lightering Operations**

**71. General Lightering Requirements**

The ship may not transfer oil in a port or place subject to the jurisdiction of the United States, if the cargo has been lightered from another vessel in the U.S. marine environment beyond the baseline from which the territorial sea is measured, unless the lightering is conducted in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 156.210).

**72. Pre-Arrival Notices regarding Lightering**

If the ship is to be lightered, the Master shall ensure that the U.S. Coast Guard Captain of the Port (COTP) nearest the lightering location or zone is provided at least 24 hours advance notice, prior to the ship's arrival in the lightering location or zone, as required by regulations promulgated by the U.S. Coast Guard. (33 CFR § 156.215).

**73. Reporting of Lightering Incidents**

If the ship is acting as the service vessel in a lightering operation and if fire, explosion, collision, grounding or any similar emergency, which poses a threat to the vessels involved, occurs during lightering, the Master shall make an immediate

report to the nearest Captain of the Port. Likewise, if any discharge of oil or hazardous material into the water occurs during a lightering operation during which the ship is acting as the service vessel, the Master shall report that occurrence in accordance with the procedures specified in MARPOL 73/78, Protocol I and 33 CFR § 151.15. (33 CFR § 156.220).

#### **74. Prohibited Lightering Areas**

The ship shall not conduct lightering operations in prohibited areas of the Gulf of Mexico as defined in regulations promulgated by the U.S. Coast Guard. (33 CFR § 156.310)

#### **75. Operations in Designated Lightering Zones**

When engaged in lightering operations in a designated lightering zone in the Gulf of Mexico, the Master shall ensure that operations are conducted in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR §§ 156.300; 156.320; 156.330).

### **Protection of the Marine Environment Design and Equipment**

#### **76. Pumping, Piping, and Discharge Arrangements**

The ship shall have a fixed piping system for transferring cargo residues and other oily mixtures from cargo tanks to slop tanks and for discharging oily mixtures to the sea and to reception facilities that meets the requirements of MARPOL 73/78, Annex I, Regulation 18. (33 CFR § 157.11).

#### **77. Cargo Monitor and Control System**

The ship shall have, for each type of cargo oil that it carries, at least one cargo monitor that is designed for use with that oil. Each monitor must meet the requirements of MARPOL 73/78, Annex I, Regulation 16. Each monitor must be fitted in accordance with the requirements of MARPOL 73/78, Annex I, Regulation 15(3). (33 CFR § 157.12).

#### **78. Designated Observation Area**

The ship shall have a designated observation area on the weather deck or above that meets the requirements of regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.13).

#### **79. Slop Tanks**

The ship shall be equipped with slop tanks that meet the requirements of MARPOL 73/78, Annex I, Regulation 15. (33 CFR § 157.15).

#### **80. Oily Residue (Sludge) Tanks**

The ship shall be equipped with oily residue (sludge) tanks that meet the requirements of MARPOL 73/78, Annex I, Regulation 17. (33 CFR § 157.17).

#### **81. Cargo Tank Arrangement and Size**

The cargo tanks on the ship shall meet the arrangement and size requirements of MARPOL 73/78, Annex I, Regulation 24. (33 CFR § 157.19).

#### **82. Subdivision and Stability**

The ship shall comply with the subdivision and stability requirements of MARPOL 73/78, Annex I, Regulation 25. (33 CFR § 157.21).

#### **83. Cargo and Ballast System Information**

The ship shall have an instruction manual that describes the automatic and manual operation of the cargo and ballast system in the ship. The format and information contained in the instruction manual shall be similar to the manual entitled "Clean Seas Guide for Oil Tankers" which can be obtained from the International Chamber of Shipping, 12 Carthusian Street, London, England, EC1M 6EB. (33 CFR § 157.23).

The Master shall ensure that the instruction manual is available and used when the cargo or ballast systems are operated. (33 CFR § 157.49).

### **Protection of the Marine Environment - Operations**

#### **84. Discharges of Oily Mixtures**

Except for discharges in accordance with MARPOL 73/78, Annex I, Regulation 9, the ship shall not discharge into waters subject to the jurisdiction of the United States any oily mixtures. Such oily mixtures will either be retained on board or transferred to a reception facility. (33 CFR § 157.29).

#### **85. Chemical Additives Prohibited**

Chemical additives may not be used to circumvent the U.S. discharge requirements. (33 CFR § 157.31).

**86. Ballast Water in Oil Fuel Tanks**

The ship may not carry ballast water in an oil fuel tank. (33 CFR § 157.33).

**87. Ballast Added to Cargo Tanks**

The Master shall ensure that ballast water is carried in a cargo tank, if at all, only in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.35).

**88. Discharge of Cargo Residue**

The ship shall only discharge cargo residue in accordance with MARPOL 73/78, Annex I, Regulation 9. (33 CFR § 157.37).

**89. Emergencies**

The prohibitions on discharges into the sea of oil and oily mixtures do not apply in instances covered by MARPOL 73/78, Annex I, Regulation 11. (33 CFR § 157.41).

**90. Discharges of Clean and Segregated Ballast**

Clean ballast may not be discharged overboard into the navigable waters of the United States except in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.43).

**91. Valves in Cargo or Ballast Piping**

When the ship is at sea and the tanks contain oil, valves and closing devices in the cargo or ballast piping system or in the transfer system must be kept closed except they may be opened for cargo or ballast transfer to trim the vessel. (33 CFR § 157.45).

**92. Information for Master**

The Master shall operate the vessel in accordance with the information required in MARPOL 73/78, Annex I, Regulation 25. (33 CFR § 157.47).

**Segregated Ballast Tanks and Dedicated Clean Ballast Tanks**

**93. General Requirement regarding Ballast Tanks**

The ship shall be equipped with segregated ballast tanks and dedicated clean ballast tanks that meet the requirements of MARPOL 73/78, Annex I, Regulations 13, 13A, and 13E. (33 CFR §§ 157.10 and 157.10a).

**94. Required Documents regarding Ballast Tanks**

The Master shall ensure that the ship does not enter the navigable waters of the United States or transfer cargo at a port or place subject to the jurisdiction of the United States unless the ship has on board the documents specified in applicable regulations promulgated by the U.S. Coast Guard, including a the *Dedicated Clean Ballast Tanks Operations Manual*. (33 CFR § 157.216(a)).

**95. Operation of Dedicated Clean Ballast Tanks**

The Master shall ensure that the ship's dedicated clean ballast tanks, if so equipped, are operated in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.225).

**96. Compliance with Dedicated Clean Ballast Tank Operations Manual**

While the ship is operating in the navigable waters of the United States or transferring cargo at a port or place subject to the jurisdiction of the United States, the Master shall ensure that the procedures listed in the *Dedicated Clean Ballast Tanks Operations Manual* are followed. (33 CFR § 157.226).

**97. Closure of Isolating Valves during Voyage**

The Master shall ensure that the valves associated with the Dedicated Clean Ballast Tanks remain closed when the ship is on a voyage in the navigable waters of the United States. (33 CFR § 157.228).

**Crude Oil Washing (COW) System**

**98. General Requirement regarding Crude Oil Washing**

The ship shall be equipped with a crude oil washing (COW) system that meets the design, equipment, and installation requirements of MARPOL 73/78, Annex I, Regulations 13 and 13B. (33 CFR §§ 157.10(e) and 157.10a(a)(2) and 33 CFR Part 157, Subpart D).

**99. Crude Oil Washing Operations and Equipment Manual**

The Master shall ensure that the ship does not enter the navigable waters of the United States or transfer cargo at a port or place subject to the jurisdiction of the



United States unless it has on board a *Crude Oil Washing Operations and Equipment Manual* that meets the manual standards in Resolution 15 of the MARPOL Protocol and complies with regulations promulgated by the U.S. Coast Guard (33 CFR § 157.118(a)).

#### **100. Crude Oil Washing Personnel**

The Master shall ensure that the person designated as the person in charge of COW operations and each member of the crew that has a designated responsibility during COW operations meet the requirements of applicable regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.152).

#### **101. Crude Oil Washing Operations**

The Master shall ensure that crude oil washing operations are conducted in accordance with applicable regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.155).

#### **102. Meeting COW Manual Requirements**

The Master shall ensure, while the ship is operating in the navigable waters of the United States or transferring cargo at a port or place subject to the jurisdiction of the United States, that during each COW operation is conducted in accordance with applicable regulations promulgated by the U.S. Coast Guard. (33 CFR §§ 157.156; 157.158).

#### **103. Tanks: Ballasting and Crude Oil Washing**

The Master shall ensure that ballasting of cargo tanks, if undertaken at all, is conducted in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.160(b)).

#### **104. Crude Oil Washing during a Voyage**

The Master shall ensure that each cargo tank that is crude oil washed during a voyage other than a ballast voyage, if undertaken at all, is done so in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.162).

#### **105. Use of the Inert Gas System with COW**

The Master shall ensure the inert gas system, if the ship is so equipped, is operated in a manner consistent with regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.164).

## **106. Hydrocarbon Emissions during Ballasting**

If the ship transfers cargo at a port in the United States, the Master shall ensure that when cargo tanks are ballasted in that port the hydrocarbon vapors in each tank are contained as required in regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.166).

## **107 Crew Member Watch during COW Operations**

During COW operations, the Master shall ensure that at least one member of the crew with a designated responsibility for monitoring COW operations is on the main deck at all times. (33 CFR § 157.168).

## **108 Removal of COW Equipment**

Whenever a deck mounted COW machine is removed from the tank, the Master shall ensure that such removal and reinstallation is done in accordance with applicable regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.170).

## **109. Limitations on Grades of Crude Oil Carried**

If the ship does not have segregated ballast tanks or dedicated clean ballast tanks that meet the requirements of MARPOL 73/78, the Master shall ensure that the vessel carries only the grades of crude oil that can be used for crude oil washing. (33 CFR § 157.172).

## **Interim Measures**

### **110. Emergency Lightering Requirements**

While operating in waters subject to the jurisdiction of the United States, the ship shall carry the emergency lightering equipment specified in regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.410).

### **111. Bridge Resource Management Policy and Procedures**

The ship shall be provided with written policy and procedures to the Master and officers in charge of the navigational watch concerning the need for continuously reassessing how bridge-watch resources are being allocated and used, based on bridge resource management principles. These written policy and procedures shall meet the requirements of applicable regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.415).

### **112. Ship Specific Watch Policy and Procedures**

The ship shall be provided written policy and procedures to the Master concerning the need for each individual who is newly employed on board the vessel to have a reasonable opportunity to become familiar with the shipboard equipment, operating procedures, and other arrangements needed for the proper performance of their duties, before being assigned to such duties. This written policy and procedures shall be followed by the Master and shall meet the requirements of applicable regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.420).

### **113. Enhanced Survey Requirements**

Beginning at the ship's next drydock after July 30, 1996, and continuing as required under the ship's flag administration, a ship shall implement an enhanced survey program that complies with the standards of IMO Resolution A.744(18), Annex B sections 1.1.3-1.1.4, 1.2-1.3, 2.1, 2.3-2.6, 3-8, and Annexes 1-10 with appendices. (33 CFR § 157.430).

### **114. Vital Systems Surveys**

Surveys of the vital systems on the ship are to be conducted in accordance with applicable regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.435).

### **115. Autopilot Alarm or Indicator**

Each installed autopilot unit on the ship without automatic manual override shall be equipped with an audible and visual alarm, which is distinct from other required bridge alarms, that will activate if the helm is manually moved while the autopilot is engaged. (33 CFR § 157.440).

### **116. Maneuvering Performance Capability**

The ship shall not be operated in waters subject to the jurisdiction of the United States until maneuvering tests in accordance with IMO Resolution A.751(18), sections 1.2, 2.3-2.4, 3 4.2, and 5 (with Explanatory Notes in MSC/Circ.644) have been conducted and the results thereof are displayed in the wheelhouse of the ship, as required by regulations promulgated by the U.S. Coast Guard. Prior to entering the port or place of destination and prior to getting underway, the Master shall discuss the results of the performance tests with the pilot while reviewing the anticipated transit and the possible impact of the ship's maneuvering capability on the transit. (33 CFR § 157.445).

### **117. Maneuvering and Vessel Status Information**

The Master shall comply with IMO Resolution A.601(15), Annex sections 1.1, 2.3, 3.1, and 3.2, with appendices regarding maneuvering and vessel status information. (33 CFR § 157.450).

#### **118. Minimum Under-Keel Clearance**

The ship shall not operate in waters subject to the jurisdiction of the United States except in conformance with the minimum under-keel clearance regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.455).

#### **Marine Sanitation Devices**

#### **121. Sewage Discharge Restrictions**

Sewage will not be discharged into the navigable waters of the United States except in accordance with the regulations promulgated by the U.S. Coast Guard. (33 CFR § 159.7).

## APPENDIX F

### Contacting the Corporate Compliance Officer

The Corporate Compliance Officer is a vital Anax asset. That officer is available to all Directors, Officers, employees, crew members, and agents of Anax on a 24-hour basis. When questions arise regarding the Maritime Compliance Program that can not be answered locally, the Corporate Compliance Officer should be contacted by means appropriate to the urgency of the question.

The Corporate Compliance Officer is \_\_\_\_\_. The telephone number is 44-171-987-6900. The telefax number is 44-171-538-2048. The pager number is \_\_\_\_\_.

The Corporate Compliance Officer (and his or her successors) is responsible for ensuring that the identity and contact numbers for the Corporate Compliance Officer are kept up to date.

## APPENDIX G

### Remedial Action

Following is a summary of the basic procedures to be followed whenever there is any damage to the ship or any discharge or other pollution incident. This summary is intended to highlight some of the procedures that may be found in detail in the ship's Vessel Response Plan (VRP), Shipboard Oil Pollution Emergency Plan (SOPEP), and similar emergency preparedness guidelines. Written plans can not anticipate every possible situation. The Master is expected to respond reasonably to any and all emergencies that may be encountered. During the response, the Master is to be guided by the basic principle that safety of life is foremost. Safety of the ship and the environment are next in importance.

Whenever there is an incident involving the ship (whether at sea or in port) that causes damage or suspected damage to the ship, the Master shall ensure that a prompt and thorough inspection is undertaken immediately. If the ship has incurred damage, the Master shall, once the situation is stabilized, notify, among others, the Corporate Compliance Officer, the appropriate government authorities, and the classification society. A copy of any damage report prepared by a classification society surveyor shall be retained by the Corporate Compliance Officer.

Any restrictions placed on the operation the ship by a classification society surveyor or by a Port State Control officer (whether by means of a Captain of the Port Order or otherwise) shall be fully complied with. Disputes over the propriety or necessity for such restrictions may be properly appealed through the classification society or Port State Control system, but, until and unless such restrictions are removed or amended, they will remain in effect and will be fully complied with. Neither the Master of the ship nor the Corporate Compliance Officer is authorized to direct unilateral deviations from those restrictions.

## APPENDIX H

### Inspection and Auditing

The ship is to be inspected by an individual appointed by the Corporate Compliance Officer at least yearly to ensure that all pollution prevention systems and equipment are properly functioning, that there is no visible damage to the ship that needs to be repaired and that the crew is properly trained. The original of the inspection report shall be retained by the Corporate Compliance Officer.

The independent auditing firm will inspect the ship and the Company at least yearly to ensure that the ship and the Company are operating in a manner consistent with the Maritime Compliance Program. The original of the report to the independent auditing firm will be retained by the Corporate Compliance Officer. The independent auditing firm will also send copies of the report the U.S. Coast Guard and the U.S. Environmental Protection Agency at the following addresses:

U.S. Coast Guard Marine Safety Office San Francisco Bay  
Building 14, Coast Guard Island  
Alameda, CA 94501-5000  
United States of America

U.S. Environmental Protection Agency, Region IX  
Attn: Regional Counsel  
215 Fremont Street  
San Francisco, CA 94105  
United States of America

**ARAN SHIPPING & TRADING S.A.**

**GENERAL CORPORATE POLICY,  
MARITIME ENVIRONMENTAL PROTECTION  
POLICY,**

**AND**

**MARITIME COMPLIANCE PROGRAM**

**September 15, 1999**



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## INTRODUCTION

Aran Shipping & Trading S.A. (hereinafter Aran or Aran Shipping or Company) always has been, and continues to be, committed to conducting its business with integrity and in accordance with all federal, state, and local laws to which its business activities are subject. It is the long-standing policy of the Company to prevent the occurrence of unethical or unlawful behavior, to halt such behavior as soon as reasonably possible after its discovery, to discipline personnel who violate Company policies, including individuals responsible for the failure to detect a violation, and to implement any changes in policy and procedure necessary to prevent recurrences of a violation. The Company has instituted various policies and programs to reflect these commitments.

Aran Shipping encourages all personnel to internally report all actual and potential non-compliance with its Maritime Compliance Program. The program details a variety of means to report such non-compliance, protecting confidentiality where appropriate. No individual's position or influence is considered to be more important than the goal of institutional integrity. Those who honestly report wrongdoing will be protected from retaliation.



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SPYROS VAGIAS

## I. GENERAL CORPORATE POLICY

The General Corporate Policy of Aran Shipping provides officers, directors, employees, and crew members, as well as those with whom we do business with a formal statement of the Company's commitment to the standards and rules of ethical business conduct spelled out in this Policy. Aran Shipping wants to ensure that the waters on which its ships operate are protected to the maximum practicable extent from degradation. To that end, we have also instituted a policy addressing that specific issue, entitled the Aran Shipping Maritime Environmental Protection Policy. Finally, we have instituted a Maritime Compliance Program, which contains a number of specific commitments to protect the maritime environment in our routine operations.

It is the policy of Aran Shipping to deter, detect, and prevent the occurrence of unethical or unlawful behavior, to halt any such behavior as soon as reasonably possible after its discovery, and to discipline its personnel who violate the standards contained in the Policy, including individuals responsible for the failure to detect a violation. It is therefore imperative that all Aran Shipping personnel comply with the standards contained in the Policy, immediately report any apparent or alleged violations thereof to his or her supervisor or to the Corporate Compliance Officer and assist any other compliance personnel in investigating any allegations of wrongdoing.

No policy statement or compliance program can cover all circumstances or anticipate every situation. Consequently, employees or crew members encountering situations not addressed specifically by this policy statement and related documents should apply the overall philosophy and concepts of this General Corporate Policy to the situation, along with the highest ethical standards observed by honorable people everywhere. If a question still exists in your mind after so doing, the particular circumstances should be reviewed with your supervisor, a member of senior management, or the Corporate Compliance Officer.

## A. The Powers and Fiduciary Duties of Directors and Officers

Aran Shipping acts through its directors, officers, employees, crew members, and agents. The Board of Directors makes fundamental management and policy decisions through adopting provisions in the bylaws or through resolutions at Board of Directors' meetings, such as the through adoption of this General Corporate Policy and the related Maritime Environmental Protection Policy and Maritime Compliance Program. Directors and officers occupy a fiduciary relationship to the Company. However, the directors do not carry out the day-to-day management of the Company; that function is left to the officers and other individuals in supervisory roles.

The directors and officers are required to exercise the utmost good faith and to exercise their powers solely in the interests of Aran Shipping. An individual accepting the position of director or officer contracts to give diligent attention to the Company's concerns and to be faithful and honest in the discharge of the duties which the position imposes. A director or officer is not expected to be infallible, but should act with an honest belief and in good faith, and in doing so, has carried out his or her fiduciary obligations to the Company.

The Board of Directors of Aran Shipping has five primary functions:

- to select management and to determine its compensation;
- to review and approve Company policies, financial objectives, major strategies, and plans;
- to provide advice and counsel to top management;
- to select and recommend a slate of candidates for the Board of Directors and to evaluate Board processes and performance; and
- to institute policies and procedures to further the goals of Aran Shipping.

In order to carry out its primary functions, the Board is charged with obligations and duties in overseeing the business conduct and ethical standards of the Company.

The Officers of Aran Shipping also have the fiduciary responsibility to act on behalf of and in the best interests of the Company. They are not to act in furtherance of their own self-interests. The management of the Company will be conducted by or under the supervision of senior officers as designated by the Board.

In performing the management function, the Officers are obligated to act in a manner consistent with the standards of Aran Shipping, to execute specific plans, policies, or directions of the Board, and to work with and on behalf of the Board to ensure that every director, officer, employee, and crew member complies with this

General Corporate Policy, the Maritime Environmental Protection Policy, and the Maritime Compliance Program.

B. Ethics

Aran Shipping's unwavering commitment is to obey all applicable laws, rules, and regulations. However, the Company's commitment does not stop there. Even where the law is permissive, the Company chooses the course of the highest integrity. To some extent, customs, traditions, and mores differ from place to place, and this must be recognized. Honesty, however, is not subject to criticism in any culture. Shades of dishonesty simply invite demoralizing and reprehensible judgments. A well-founded reputation for scrupulous dealing is itself a priceless Aran Shipping asset.

All Aran Shipping personnel must understand that we do care how results are obtained, not just that they are obtained. Personnel are required to record all transactions accurately in their books and records and to be honest and forthcoming with internal and external auditors.

Equally important, we expect candor from managers at all levels, and compliance with the Company's policies, accounting rules, and controls. One harm which results when personnel conceal information from higher management or from the Corporate Compliance Officer is that subordinates within the organization think they are being given a signal that Company policies and rules can be ignored when they are inconvenient. This can result in corruption and demoralization of an organization. Aran Shipping will not tolerate this. Our organization will accept nothing short of honesty, including honest accounting, honest budget proposals, and honest economic evaluation of projects.

## C. Books and Records

### ■ **Falsification of Records**

U.S. law requires Aran Shipping to assure that its books and records accurately reflect the true nature of the transactions represented therein. Therefore, in all of our operations, it is against Company policy, and possibly illegal, for any personnel to intentionally or negligently cause our books and records to be inaccurate. Examples would include preparing records that make it appear as though an operation was conducted in one manner when it was actually conducted in a different manner; that payments were made to one person when, in fact, they were made to another; that expenditures were made in one manner when they were actually made in a different manner; or any other situation where records that are made to reflect an event do not accurately depict the situation.

False or artificial entries must never be made in Aran Shipping's books and records nor in any public record for any reason, nor should permanent entries in the Company's records be altered in any way.

It is very important that personnel not create or participate in the creation of any records which are intended to mislead or to conceal anything that is improper.

### ■ **Retention of Records**

Disposal or destruction of Aran Shipping's records and files is not discretionary. Legal and regulatory practice require the retention of certain records for various periods of time, particularly in the personnel, health and safety, and environmental areas. In addition, when litigation or a government investigation or audit is pending, relevant records must not be destroyed until the matter is closed. Destruction of records to avoid disclosure in a legal proceeding may constitute a criminal offense. Consult with the Corporate Compliance Officer for information on retention periods and restrictions.

#### D. Safety, Health, and the Environment

Aran Shipping is committed to providing a safe and healthy work place for our employees and crew members and for visitors on our vessels or our premises. We are equally committed to preventing deterioration of the environment and minimizing the impact of our operations on the land, air, and water. These commitments can only be met through the awareness and cooperation of all personnel. We each have a responsibility to abide by safe operating procedures, to guard our own and our fellow employees' and crew members' health, and to maintain and utilize pollution prevention systems.

In the United States and other countries, regulatory agencies exist at the federal, state or local levels to insure compliance with laws and regulations affecting safety, health, and environmental protection. It is the Company's policy to comply with both the letter and the spirit of the laws and regulations enforced by these agencies and to attempt to develop a cooperative attitude with inspection and enforcement personnel from the agencies. In keeping with this spirit, personnel are encouraged to report to their supervisors conditions which they perceive to be unsafe, unhealthy, or hazardous to the environment. Compliance with applicable international, flag state, and port state health, safety, and environmental requirements shall be a positive factor in the personnel evaluation process and non-compliance shall be a negative factor. Likewise, nothing in the personnel evaluation process should provide an employee or crew member with the incentive to reduce expenditures for health, safety, or environmental compliance. The Maritime Environmental Protection Policy and Maritime Compliance Program follow this general policy statement. Pertinent environmental requirements are summarized in Appendix E.

#### E. Drugs and Alcohol

Aran Shipping prohibits the use or possession of any illegal drugs or any alcohol on Company vessels. Personnel are also prohibited from being on Company vessels under the influence of either illegal drugs or alcohol.

## II. MARITIME ENVIRONMENTAL PROTECTION POLICY

Aran Shipping, its Directors and Senior Management are fully committed to the protection of the environment and to the prevention of pollution. Pollution of the environment by a ship can be caused in a number of ways, including, but not limited to, discharge from the ship of oil, sewage, garbage, and ballast water. The predominant cause of a pollution incident is human error. Aran is committed to minimising the risk of human error as a source of pollution through to adoption of this Maritime Environmental Protection Policy and Maritime Compliance Program.

Through the commitment of all personnel to the Maritime Environmental Protection Policy and Maritime Compliance Program, the company goal is to eliminate pollution incidents on its vessels.

**The purpose of this Maritime Environmental Protection Policy is:**

- To provide that the Environmental Compliance Program is reviewed on a regular basis so as to ensure that it encompasses the environmental requirements established under applicable international, flag state, and port state law, including, but not limited, to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78) and Title 33, U.S. Code of Federal Regulations (CFR), Subchapter O.
- To educate company staff, both ashore and onboard, in respect of environmental protection, including, but not limited to, the management, handling and disposal of oil and waste oil, including slops and bilge waste.
- To identify the shipboard operations that may lead to pollution.
- To establish procedures governing these operations with a view to reducing to the maximum extent feasible the risk of pollution from these operations.
- To implement a training and auditing program that will ensure compliance with company policies.
- To provide that compliance with the environmental requirements of MARPOL 73/78, U.S. law, and other applicable provisions is a positive factor in all appropriate personnel evaluations and that failure to comply with those requirements is a negative factor in the evaluations.
- To establish procedures for the reporting of pollution incidents and of non-compliance with company policy.



- To identify, on each ship, an officer who shall be responsible for ensuring compliance with reporting requirements under MARPOL 73/78, U.S. law, or other applicable requirements.
- To identify, on each ship, an officer who shall be responsible for regular "all hands" training on environmental compliance and reporting requirements.
- To identify a senior management official who shall be directly responsible for monitoring, maintaining, and enforcing the Aran Maritime Environmental Protection Policy and Maritime Compliance Program, including making regular reports to the Board of Directors on environmental compliance and training.
- To provide that the Board of Directors reviews the internal reports submitted to it on environmental policies, incidents, and training with the view of ensuring that those reports evidence compliance with the Aran Maritime Environmental Protection Policy and Maritime Compliance Program.

### III. MARITIME COMPLIANCE PROGRAM

The purpose of Aran Shipping's Maritime Compliance Program is twofold. First, it provides a mechanism to enforce the Company's Corporate and Maritime Environmental Protection Policies. Second, and perhaps more important, the Maritime Compliance Program coupled with those policies sets an ethical tone for conducting business and creates a corporate culture which enhances the reputation of the company.

The Maritime Compliance Program is simply a mechanism to educate Aran Shipping personnel as to our expectations with regard to the proper conduct of the Company's maritime business, sensitize them to the potential for and the problems caused by unethical and criminal misconduct, monitor for compliance with the Company's expectations, audit for and investigate wrongdoing, and sanction violators.

The definition of a Maritime Compliance Program is spelled out in law. See Guidelines for an Effective Compliance Program set out in Appendix A. The hallmark of an effective Maritime Compliance Program is "due diligence." It is a program designed to promote due diligence in everything from the hiring of employees and crew members to the auditing of records. It is a mechanism to ensure that Aran Shipping diligently strives to deter, detect, and prevent misconduct and criminal activity.

The Aran Maritime Compliance Program envisions education, training, investigation, detection, and reporting. The Maritime Compliance Program also requires that subsidiaries of and agents acting for or on behalf of Aran Shipping also enact and/or comply with the Company's compliance program.

Aran Shipping intends to utilize a variety of tools to implement the Maritime Compliance Program. These tools include training and education, employee and crew member performance evaluations, a "whistleblower" reporting system and internal audits. It is the Company's intention to monitor this program to verify compliance with the Company's published standards.

A. Standards and Procedures

Aran Shipping has established compliance standards and procedures to be followed by its employees, crews, and other agents that are designed to foster ethical conduct and compliance both the letter and the spirit of applicable laws and regulations, while also reducing the prospect of criminal conduct. These compliance standards and procedures are summarized in Appendix E.

B. Corporate Compliance Officer

The Board of Directors shall appoint a Corporate Compliance Officer who may be removed only for cause. The Corporate Compliance Officer will have ultimate responsibility for overseeing compliance by Aran Shipping, its employees, its crews, and its agents with all applicable laws, the Maritime Compliance Program, and all related Company policies and procedures. The Corporate Compliance Officer shall assign an officer on each ship who shall be responsible for ensuring that the ship and its crew operate in accordance with the Maritime Compliance Program, including all applicable training and reporting requirements. This officer shall, in the performance of these duties, report directly to the Master and the Corporate Compliance Officer.

The designation of a Corporate Compliance Officer in no way diminishes or vitiates the responsibility of all personnel to comply with all Company policies and procedures, nor does it diminish every supervisor's responsibility to ensure that those personnel for which he or she has responsibility comply with the Maritime Compliance Program and related policies and procedures.

The Corporate Compliance Officer will be responsible for coordinating the annual review and updating of the Maritime Compliance Program, and related policies and procedures. In accordance with the U.S. Government Consent Decree, the Corporate Compliance Officer will also oversee the hiring by the Company of an independent auditing firm acceptable to the United States that will assist in inspecting all ships under the Company's operational and management control to look for possible pollution and/or safety problems and make at least yearly reports to the U.S. Coast Guard and Environmental Protection Agency concerning safety, waste stream, and pollution issues. The Corporate Compliance Officer also will be responsible for reporting to the Board of Directors, any special Committee of the Board, and the Chief Executive Officer on the implementation and enforcement of the Maritime Compliance Program.

In addition to these responsibilities, the Corporate Compliance Officer is responsible for the overall effectiveness of the program. In executing these duties the Corporate Compliance Officer must perform a wide variety of tasks. Some of these duties are set out in Appendix B.

C. Delegations of Authority

Aran Shipping will exercise due care to ensure that the persons whom it entrusts with substantial authority and responsibility do not have a propensity to violate the laws or company policy. In addition to the implementation of a Maritime Compliance Program, Aran Shipping has instituted a system for reporting suspected violations, a mechanism for discipline for violations, and a program to minimize the likelihood that substantial discretionary authority or responsibility will be granted to persons who can not be trusted with that authority or responsibility.

To that end, the Corporate Compliance Officer shall ensure that those positions with substantial discretionary authority or responsibility are identified. Within the bounds of applicable privacy standards, personnel applying for or being considered for functions with substantial discretionary authority or responsibility shall be screened. The screening should consist of such matters as verification of education and prior employment and a criminal record check. The records of current employees and crews should be checked periodically to ensure that these persons are performing in compliance with their responsibilities. Applicants for positions with substantial discretionary authority or responsibility who, through this screening process, are found to be untrustworthy will not be hired for such a position. Current personnel in positions with substantial discretionary authority or responsibility who are found to be untrustworthy will be reassigned or terminated at the earliest opportunity. While awaiting reassignment or termination, such personnel will be monitored closely.

D. Communication and Training

A critical aspect of the Aran General Corporate Policy and Maritime Environmental Protection Policy is the effective communication of the Maritime Compliance Program and related policies and procedures to all personnel. The Corporate Compliance Officer is responsible for establishing procedures to ensure that every employee and crew member is familiar with the Aran policies and the Maritime Compliance Program and endeavors to abide by them. These procedures include the following:

1. Every newly hired employee and crew member will be provided a copy of the Aran General Corporate Policy, the Maritime Environmental

Protection Policy, the Maritime Compliance Program, and other policy documents relevant to his or her employment. Within 14 days of receiving this material, the new employee and crew member must sign an acknowledgement stating that the employee or crew member has read and understands these policies and agrees to abide by them.

2. Each employee and crew member must annually sign an acknowledgement stating that he or she has reviewed the Aran General Corporate Policy, the Maritime Environmental Protection Policy, the Maritime Compliance Program, taken part in the Maritime Compliance Program, and intends to comply with their requirements.

The Corporate Compliance Officer is responsible for ensuring that these certifications are retained by the Company.

The Corporate Compliance Officer is responsible for overseeing and coordinating all training of personnel with respect to the Aran General Corporate Policy, the Maritime Environmental Protection Policy, and the Maritime Compliance Program. Training procedures shall, at a minimum, consist of the following:

All personnel will receive, review, and acknowledge their understanding of the Aran General Corporate Policy, the Maritime Environmental Protection Policy, the Maritime Compliance Program and relevant related policies.

Each supervisor will be responsible for ensuring that employees or crew members under his or her supervision receive training in the Aran General Corporate Policy, the Maritime Environmental Protection Policy, the Maritime Compliance Program, and relevant related policies on an annual basis. The Corporate Compliance Officer may assist in the preparation and presentation of these training seminars.

The Corporate Compliance Officer is responsible for documenting attendance of personnel at training sessions and retaining such records.

## E. Monitoring and Auditing

Aran Shipping is committed to the policy that every employee and crew member has an obligation to report any suspected violation of the Aran General Corporate Policy, the Maritime Environmental Protection Policy, or the Maritime Compliance Program to his supervisor or, when appropriate, to the Corporate Compliance Officer. All supervisors must report any potential violation to the Corporate Compliance Officer. The Corporate Compliance Officer shall immediately notify, in writing, the Legal Counsel for Aran Shipping of all such reports and suspected violations. Reporting personnel may not be subject to any reprisal for a good faith report of a suspected violation of the Aran General Corporate Policy, the Maritime Environmental Protection Policy, or the Maritime Compliance Program. The Company also will establish and publicize a means for anonymous reporting of violations.

Aran Shipping is committed to establishing an environment that encourages and allows personnel to seek and receive prompt guidance before engaging in conduct that may violate the Aran General Corporate Policy, the Maritime Environmental Protection Policy, the Maritime Compliance Program, or any applicable federal law, rule or regulation. To achieve these objectives, the Corporate Compliance Officer is responsible for ensuring that the following practices and procedures are implemented and publicized in writing to all personnel:

Personnel may consult their supervisor or the Corporate-Compliance Officer about any questions regarding the Aran General Corporate Policy, the Maritime Environmental Protection Policy, or the Maritime Compliance Program.

Personnel may report to their supervisors any violation of the Aran General Corporate Policy, the Maritime Environmental Protection Policy, the Maritime Compliance Program or applicable federal law, rule, or regulation. Supervisors who receive such reports from employees or crew members should immediately report the information to the Corporate Compliance Officer. Personnel may not be subject to any reprisal for a good faith report of a suspected violation of the Aran General Corporate Policy, the Maritime Environmental Protection Policy, Maritime Compliance Program, or applicable federal law, rule, or regulation. Personnel can, when appropriate, report suspected violations directly to the Corporate Compliance Officer.

The Corporate Compliance Officer is responsible for a prompt review of all reports received of suspected violations of the Aran

General Corporate Policy, the Maritime Environmental Protection Policy, Maritime Compliance Program, or applicable federal law, rule, or regulation. The Corporate Compliance Officer may request Aran Shipping's Legal Advisor to institute investigations of reported violations where further investigation is necessary.

The Corporate Compliance Officer will establish and publicize a system that permits anonymous reports of violations of the Aran General Corporate Policy, the Maritime Environmental Protection Policy, Maritime Compliance Program, or applicable federal law, rule, or regulation to the Corporate Compliance Officer. This system should also be available to answer questions regarding the Aran General Corporate Policy, the Maritime Environmental Protection Policy, or the Maritime Compliance Program.

F. Disciplinary Mechanisms

Aran Shipping shall promptly and properly document all reasons behind disciplinary actions taken against its personnel for violations of the Aran General Corporate Policy, the Maritime Environmental Protection Policy, or the Maritime Compliance Program. The Corporate Compliance Officer is responsible for ensuring that such documentation is included in the individuals' personnel files.

In determining appropriate disciplinary action to impose for a violation of the Aran General Corporate Policy, the Maritime Environmental Protection Policy, or the Maritime Compliance Program, in consultation with legal counsel and appropriate supervisory personnel, Management should consider the factors listed below, as appropriate:

1. The nature of the violation and the ramifications of the violation to Aran Shipping and its customers and business contacts.
2. Whether the individual was directly or indirectly involved in the violation.
3. Whether the violation was willful, negligent, or unintentional.
4. Whether the violation represented an isolated occurrence or a pattern of misconduct.
5. Whether the individual in question reported the violation.

6. Whether the individual withheld relevant or material information concerning the violation.
7. The degree to which the individual cooperated with the investigation.
8. Whether the violation consisted of the failure to supervise another individual who violated the Aran General Corporate Policy, the Maritime Environmental Protection Policy, or the Maritime Compliance Program and, if so, the extent to which the circumstances reflect inadequate supervision or lack of due diligence.
9. Whether the violation consisted of retaliation against another individual for reporting a violation or for cooperating with an investigation and, if so, the nature of such retaliation.
10. The disciplinary action previously imposed for similar violations.
11. The individual's previous violations, if any.

**G. Remedial Action**

After an offense has been detected, Aran Shipping will take all reasonable steps to respond appropriately to the offense and prevent further similar offenses - including any necessary modifications to its program to prevent and detect violations of law. The Corporate Compliance Officer shall be responsible for identifying any necessary modifications to the Maritime Compliance Program. Tools available in this regard include interviews of individual employees and crew members, focus group interviews with representative groups of employees and crew members, employee and crew member surveys, and analysis of existing program data. Program deficiencies and inadequacies identified through this process will be reported to the Board of Directors, along with recommendations for modifications to the Maritime Compliance Program.



## APPENDIX A

### Guidelines for an Effective Compliance Program

An "effective program to prevent and detect violations of law" means a program that has been reasonably designed, implemented, and enforced, so that it generally will be effective in preventing and detecting criminal conduct. Failure to prevent or detect the instant offense, by itself, does not mean that the program was not effective. The hallmark of an effective program to prevent and detect violations of law is that the organization exercised due diligence in seeking to prevent and detect criminal conduct by its employees, crew members and other agents. Due diligence requires at a minimum that the organization must have taken the following types of steps:

- (1) The organization must have established compliance standards and procedures to be followed by its employees, crew members, and other agents that are reasonably capable of reducing the prospect of criminal conduct.
- (2) Specific individual(s) within high-level personnel of the organization must have been assigned overall responsibility to oversee compliance with such standards and procedures.
- (3) The organization must have used due care not to delegate substantial discretionary authority to individuals whom the organization knew, or should have known through the exercise of due diligence, had a propensity to engage in illegal activities.
- (4) The organization must have taken steps to communicate effectively its standards and procedures to all employees, crew members, and other agents, e.g., by requiring participation in training programs or by disseminating publications that explain in a practical manner what is required.
- (5) The organization must have taken reasonable steps to achieve compliance with its standards, e.g., by utilizing monitoring and auditing systems reasonably designed to detect criminal conduct by its employees, crew members, and other agents and by having in

place and publicizing a reporting system whereby employees, crew members, and other agents could report criminal conduct by others within the organization without fear of retribution.

- (6) The standards must have been consistently enforced through appropriate disciplinary mechanisms, including, as appropriate, discipline of individuals responsible for the failure to detect an offense. Adequate discipline of individuals responsible for an offense is a necessary component of enforcement; however, the form of discipline that will be appropriate will be case specific.
- (7) After an offense has been detected, the organization must have taken all reasonable steps to respond appropriately to the offense and prevent further similar offenses - including any necessary modifications to its program to prevent and detect violations of law.

The precise actions necessary for an effective program to prevent and detect violations of law will depend upon a number of factors. Among the relevant factors are:

Size of the organization – The requisite degree of formality of a program to prevent and detect violations of law will vary with the size of the organization: the larger the organization, the more formal the program typically should be. A larger organization generally should have established written policies defining the standards and procedures to be followed by its employees, crew members, and other agents.

Likelihood the certain offenses may occur because of the nature of the business – If because of the nature of an organization's business there is a substantial risk that certain types of offenses may occur, management must have taken steps to prevent and detect those types of offenses. For example, if an organization handles toxic substances, it must have established standards and procedures to ensure that those substances are properly handled at all times. If an organization employs sales personnel who have flexibility in setting prices, it must have established standards and procedures designed to prevent and detect

price-fixing. If an organization employs sales personnel who have flexibility to represent the material characteristics of a product, it must have established standards and procedures designed to prevent fraud.

Prior history of the organization – An organization's prior history may indicate types of offenses that it should have taken actions to prevent. Recurrence of misconduct similar to that which an organization has previously committed casts doubt on whether it took all reasonable steps to prevent such misconduct.

An organization's failure to incorporate and follow applicable industry practice or the standards called for by any applicable governmental regulation weighs against a finding of an effective program to prevent and detect violations of law.

U.S. Sentencing Guidelines, § 8A1.2, Commentary 3(k).

## APPENDIX B

### Duties of Corporate Compliance Officer

- Review and keep current with all applicable laws, regulations, standard operating procedures relevant to the Maritime Compliance Program;
- Review and approve appropriate standard operating procedures, operational checks and balances and management controls relevant to the Maritime Compliance Program;
- Maintain, for a minimum of five years, records related to the Maritime Compliance Program;
- Insure that evaluations of the Maritime Compliance Program are conducted on a periodic basis;
- Report on the implementation and effectiveness of the Maritime Compliance Program;
- Conduct periodic inspections and audits to identify problems and to recommend corrective actions;
- Assure that the Aran General Corporate Policy, the Maritime Environmental Protection Policy, and Maritime Compliance Program, as appropriate, are distributed to all third party contractors who perform services for or on behalf of the Company and to vendors who conduct significant business with the Company;
- Verify that programs and procedures exist for screening employees and crew members for propensity to engage in illegal activities. These include: verification of the employment application; screening of public records; and internal checks on existing employees and crew members;
- Verify that a reliable system of internal checks and balances exists to assure that no employee or crew member has complete autonomy in areas such as environmental or safety compliance, inventory control, purchasing, and disbursement of funds;
- Institute and maintain systems for reporting and investigating suspected violations of the Aran General Corporate Policy, the Maritime Environmental Protection Policy, and the Maritime Compliance Program as well as a method of reporting and memorializing events and protecting all applicable privileges.

## APPENDIX C

### Responding to Allegations of Noncompliance

#### Immediate Response Necessary

All personnel who are aware of a suspected noncompliance with of the Aran General Corporate Policy, the Maritime Environmental Protection Policy, the Maritime Compliance Program or related policies are responsible for reporting that information immediately to their supervisor or to the Corporate Compliance Officer. If the incident involves a discharge or suspected discharge (accidental or otherwise) into the waters of the United States, an immediate report shall be made to the U.S. Coast Guard.

The Corporate Compliance Officer shall consult with the Company's legal advisor regarding the various questions raised by a reported noncompliance with of the Aran General Corporate Policy, the Maritime Environmental Protection Policy, Maritime Compliance Program, or any applicable law, rule, or regulation. Among the issues that should be addressed when a noncompliance is reported are the following:

- Should an internal investigation be conducted?
- Should outside counsel conduct the investigation?
- Should a disclosure be made to the appropriate government agency?
- Do employees or crew members need separate counsel?
- Should the Company provide separate counsel for employees or crew members?
- Should a submission be made to the government regarding the facts and law at issue?

#### Investigations of Reports of Noncompliance

All personnel are expected to cooperate in the investigation of an alleged noncompliance with the Aran General Corporate Policy, the Maritime Environmental Protection Policy, the Maritime Compliance Program or applicable law, rule, or regulation. It is imperative, however, that even the preliminary investigation of a suspected noncompliance NOT be conducted without consulting with the Corporate Compliance Officer and seeking the assistance and guidance of counsel. Investigations may raise complicated legal issues and investigations conducted without the advice of counsel could result in the waiver of important privileges. Typically, reports of noncompliance may concern potential judicial,

administrative or congressional proceedings and as such gathering of information should be performed under the supervision of counsel in anticipation of such potential proceedings in order to protect all applicable privileges. Moreover, since the approach to an investigation will vary in accordance with the specific facts of the particular circumstance, it is essential that legal counsel, after considering the ramifications of all alternatives, advise the Company of its most appropriate response.

While investigations will vary in scope and substance, the following is a brief, general description of the framework in which the Company's legal counsel will likely assist in the conduct an investigation:

- Legal counsel and the Corporate Compliance Officer will attempt to discern which Company personnel are involved in or have any information regarding the alleged noncompliance and interview all such persons.
- Legal counsel will review with the Corporate Compliance Officer all relevant documents. Identifying all relevant documents is essential. A thorough investigation will include a review of all relevant papers, computer discs and tapes. The goal of the investigation should be to learn as much as possible about the scope of the activities at issue, any potential government investigation, and to assess the possibility of potential exposure to criminal and civil penalties.
- Because of potential conflict issues, legal counsel will inform either orally or in writing all Company personnel who will be interviewed of the specific terms under which the interview will be conducted. The interviewer should be certain to convey the following information to the individual:
  - Attorneys for the Company represent the Company.
  - The Company's lawyers remain free to use any disclosure, information, or leads to other information that the individual provides.
  - A determination should be made after the initial interview as to whether the individual should retain independent legal counsel.
  - The attorney-client privilege and the work product doctrine apply to the interview, but these privileges belong to the Company and not to the individual.
  - During these interviews, legal counsel will advise the individual that although the individual has the right to speak freely about any matter, the Company prefers that the individual not speak with anyone about the investigation other than those individuals conducting the investigation, or appropriate law enforcement or judicial officers where appropriate.

- Under all circumstances it is essential that the individual be truthful in responding to questions at any interview.
- The Corporate Compliance Officer should consult with legal counsel to determine whether voluntary disclosure to a government agency or regulatory authority is appropriate.
- Following the completion of the investigation, the Corporate Compliance Officer should consult with legal counsel to determine whether any modification to the existing policies and procedures is warranted.

### **Contemporaneous Written Record of Noncompliance**

The officer on the ship assigned responsibility for ensuring that the ship and its crew operate in accordance with the Maritime Compliance Program shall ensure that a contemporaneous written record is made with regard to each noncompliance. The original of the contemporaneous written record shall be maintained on the ship for inspection by the independent auditing firm and the U.S. Coast Guard upon request. A copy shall be forwarded to the Corporate Compliance Officer.

### **Cooperating with a Government Investigation and Notifying Company Personnel of the Existence of Government Investigation**

- In general, with respect to government investigations, it is the Company's policy to cooperate with the government. Because the Company should act only with the advice of its legal counsel in these matters, all efforts at cooperating with the government are best coordinated by legal counsel.
- Depending upon the circumstances, it may be appropriate to inform Company personnel that the government is conducting an investigation of certain matters and that government investigators may wish to interview individuals in connection with the investigation. Also, the Company may wish to inform its personnel that it has arranged for an attorney to be available to provide advice to its personnel (although not necessarily to represent them in the investigation) as to the nature of the investigation, the purpose of the government interview, and the individual's rights and obligations in connection with such an interview.
- The Company should state that, while it is the individual's right to deal directly with government investigators without legal counsel, the Company believes it is in the individual's best interests to confer with legal counsel prior to doing so.

## APPENDIX D

### SUMMARY OF SELECTED FEDERAL CRIMINAL LAWS

This appendix is designed to give a brief practical description of the major federal criminal statutes that may apply to the maritime operations of Aran Shipping. This appendix is not intended to be an exhaustive or comprehensive review of the federal criminal statutes. For more information, you should contact the Corporate Compliance Officer.

#### General Provisions

##### False Statements

The major federal statute governing false statements is 18 U.S.C. § 1001. The statute applies to three separate offenses:

- falsifying, concealing or covering up a material fact by a trick, scheme, or device;
- making false, fictitious, or fraudulent statements or representations; and
- making or using any false documents or writing.

Violations of Section 1001 are punishable by a fine of not more than \$10,000 or imprisonment for not more than five years, or both. Courts generally agree that Section 1001 covers both oral and written statements. The statement may be sworn or unsworn, signed or unsigned, voluntary or required by law, and need not be made directly to the federal government.

This offense encompasses a wide variety of actions including such examples as failing to make complete disclosure on a federal application form, omitting relevant facts in a financial statement, transferring inspection stamps, presenting to a federal official a record or logbook known to contain a false or inaccurate material entry even when the entry was made outside the jurisdiction of the United States, and oral false statements to customs officials and other government agents.

##### Conspiracy

The general federal conspiracy statute, 18 U.S.C. § 371, proscribes combinations of two or more persons to commit any offense against the United States, to defraud the United States, or to defraud any government agency. The susceptibility of Section 371 to broad application has made conspiracy one of the most commonly charged offenses in the prosecution of federal crime.



Conspiracy to commit any offense against the United States denotes an *agreement* to violate any criminal federal law. Conspiracy is composed of four major elements. A conspiracy exists where the conspirators:

- make an agreement;
- to achieve an illegal goal;
- with knowledge of the existence of and with actual participation in the conspiracy; and
- at least one conspirator performs an overt act in furtherance of the illegal goal.

### **Impeding Federal Law Enforcement Officers**

It is a violation of federal law to assault or otherwise impede federal law enforcement officers in the performance of their duties. 18 U.S.C. § 111.

## **Operational Provisions**

### **Arrival, Reporting, Entry, and Clearance Requirements**

Intentional failure by the master to comply with the Customs Service arrival, reporting, entry, and clearance requirements is a criminal offense. 19 U.S.C. § 1436.

### **Negligent or Impaired Operations**

Operation of a vessel on the waters of the United States in a grossly negligent manner so as to endanger the life, limb, or property of a person is a criminal offense. 46 U.S.C. § 2302(b). Operation of a vessel on the waters of the United States while under the influence of alcohol or a dangerous drug in violation of a law of the United States is a criminal offense. 46 U.S.C. § 2302(c).

### **Witness Tampering**

Attempting to coerce a witness or to induce a witness to testify falsely or to induce a witness to leave the jurisdiction of the United States in connection with a marine casualty is a criminal offense. 46 U.S.C. § 6306.

### **Sending an Unseaworthy Vessel to Sea**

Sending or attempting to send a vessel of the United States to sea in an unseaworthy state that is likely to endanger the life of an individual is a criminal offense. 46 U.S.C. § 10908.

## **Ports and Waterways Safety**

The willful and knowing violation of the Ports and Waterways Safety Act (33 U.S.C. §§ 1221-1236) or a regulation issued thereunder (33 CFR Parts 160-168) is a criminal offense. 33 U.S.C. § 1232(b). These provisions relate generally to vessel operating requirements, port and waterfront safety, and conditions for port entry.

## **Environmental Provisions**

### **Federal Water Pollution Control Act**

Pollution of the waters of the United States by spills of oil and hazardous substances (or by other means) is prohibited. Where the pollution is intentional or negligent, criminal penalties may be imposed in accordance with 33 U.S.C. § 1319. The negligence standard applied under this statute is ordinary (civil) negligence and may include the negligent failure to comply with applicable federal regulations or industry standards.

Release into the waters of the United States of oil or hazardous substances must be promptly reported to the federal government. Failure to make the required report or the submittal of a false report may lead to the imposition of criminal penalties in accordance with 33 U.S.C. § 1321.

### **Comprehensive Environmental Response, Compensation, and Liability Act**

Release into the environment of the United States of hazardous substances must be promptly reported to the federal government. Failure to make the required report or the submittal of a false report may lead to the imposition of criminal penalties in accordance with 42 U.S.C. § 9603.

### **Refuse Act of 1899**

The Refuse Act of 1899, 33 U.S.C. § 407, makes it generally unlawful to throw, discharge, or deposit, or cause suffer, or procure to be thrown, discharged, or deposited any refuse matter of any kind or description into navigable waters of the United States. Criminal penalties may be imposed for violations of this provision, without regard to the intent of the individual.

## **Migratory Bird Treaty Act**

It is a violation of U.S. law to kill or injure a migratory bird. Most birds in the United States are considered to be migratory and within the protection of this statute. Criminal penalties may be imposed for violations of this provision, without regard to the intent of the individual. 16 U.S.C. § 703.

## **Marine Mammal Protection Act**

It is a violation of U.S. law to kill or injure a marine mammal. Criminal penalties may be imposed for knowing violations of this provision. 16 U.S.C. § 1375.

## **Act to Prevent Pollution from Ships**

It is a violation of U.S. law to not comply with the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78), Annex V of the Protocol on Environmental Protection to the Antarctic Treaty (Antarctic Protocol 1991), the Act to Prevent Pollution from Ships (33 U.S.C. §§ 1901-1915), or the regulations promulgated thereunder (33 CFR Part 151, Subpart A). Criminal penalties may be imposed for knowing violations of this provision. 33 U.S.C. § 1908(a).

## **Ocean Dumping**

It is a violation of U.S. law to, without a permit or as otherwise authorized by law, transport material from the United States for the purpose of dumping it into ocean waters or to dump material transported from outside the United States into the territorial sea or contiguous zone of the United States. Criminal penalties may be imposed for knowing violations of this provision. 33 U.S.C. § 1415(b).

## **Ballast Water Management**

It is a violation of U.S. law to fail to comply with regulations promulgated by the U.S. Coast Guard regarding ballast water management for vessels entering the Great Lakes or the Hudson River north of the George Washington Bridge. It is also a violation of U.S. law to fail to submit ballast water management reports for any vessel entering U.S. waters after operating outside the U.S. Exclusive Economic Zone. Criminal penalties may be imposed for knowing violations of these requirements. 16 U.S.C. § 4711(g)(2).

## APPENDIX E

### SUMMARY OF PERTINENT ENVIRONMENTAL REQUIREMENTS

This appendix is designed to give a brief practical description of the pertinent environmental requirements as they relate to the operation of Anax vessels in waters subject to the jurisdiction of the United States. Specific questions should be brought to the attention of the Corporate Compliance Officer or the Company's Legal Advisor.

#### Discharges into U.S. Waters

##### 1. Discharge Prohibition

Discharge of oil or hazardous substances into the waters of the United States is prohibited. (33 U.S.C. § 1321(b)(3)). Exceptions are provided for discharges of oil from a properly functioning vessel engine and discharges of oil permitted under MARPOL 73/78, Annex I. (40 CFR § 110.5 and 33 CFR § 151.10). The waters of the United States include the internal waters (e.g., bays, lakes, sounds, and rivers), the territorial sea of the United States out to a distance of three nautical miles from the baseline from which the territorial sea is measured, the contiguous zone of the United States which extends from the outer edge of the territorial sea to a distance of twelve miles from the baseline, and, for operations in connection therewith, the exclusive economic zone which extends to a distance of 200 miles from the baseline. (33 U.S.C. § 1321(b)(3)). The baseline, in most instances, is the coastline at mean low tide.

##### 2. Reporting of Discharges

The Master, as soon as he or she has knowledge of any unauthorized discharge of oil or a hazardous substance from the vessel into waters of the United States, must immediately notify the U.S. Coast Guard. (33 U.S.C. § 1321(b)(5)). The Coast Guard should be notified through the National Response Center at telephone number 1-800-424-8802. If it is not practicable to contact the National Response Center, the local Coast Guard Marine Safety Office (MSO) should be notified by the most rapid means available. (40 CFR § 110.6 and 33 CFR § 153.203).

Certain incidents involving discharges or probable discharges must be reported even though they are permitted by MARPOL 73/78. These incidents include those permitted by MARPOL 73/78 by virtue of the fact that it is for the safety of the ship or saving life at sea or it results from damage to the ship or its equipment. (MARPOL 73/78, Protocol I and 33 CFR § 151.15(e)).

### 3. Removal of Discharges

It is the duty of the party responsible for the unauthorized discharge of oil or a hazardous substance into waters of the United States to remove the discharge to the maximum extent feasible. (33 U.S.C. § 1321(c)(5)). Removal action must be performed in accordance with the National Contingency Plan, the applicable Area Contingency Plan, and the ship's Vessel Response Plan. (33 U.S.C. § 1321(c)(3)). Employees, crew members, and agents of Anax shall, during the removal action, comply with all proper orders and directions of and provide all reasonable cooperation and assistance to the Coast Guard On-Scene Coordinator or other appropriate government official. (33 U.S.C. §§ 1321(b)(7)(B) and 2703(c)).

#### Oil Record Book

### 4. Recording of Fuel Oil Transfers

Entries shall be made in the Oil Record Book on each occasion, on a tank to tank basis if appropriate, whenever any of the following machinery space operations take place on the ship:

- (1) Ballasting or cleaning of fuel oil tanks;
- (2) Discharge of dirty ballast or cleaning water from fuel oil tanks;
- (3) Disposal of oily residues (sludge); and
- (4) Discharge overboard or disposal otherwise of bilge water that has accumulated in machinery spaces. (33 CFR § 151.25(d))

### 5. Recording of Oil Cargo Transfers

Entries shall be made in the Oil Record Book on each occasion, on a tank to tank basis if appropriate, whenever any of the following cargo/ballast operations take place on the ship:

- (1) Loading of oil cargo;
- (2) Internal transfer of oil cargo during voyage;
- (3) Unloading of oil cargo;
- (4) Ballasting of cargo tanks and dedicated clean ballast tanks;
- (5) Cleaning of cargo tanks including crude oil washing;
- (6) Discharge of ballast except from segregated ballast tanks;
- (7) Discharge of water from slop tanks;
- (8) Closing of all applicable valves or similar devices after slop tank discharge operations;

- (9) Closing of valves necessary for isolation of dedicated clean ballast tanks from cargo and stripping lines after slop tank discharge operations; and
- (10) Disposal of residues. (33 CFR § 151.25(e)).

## **6. Recording of All Emergency, Accidental, or Other Exceptional Discharges**

In the event of an emergency, accidental or other exceptional discharge of oil or oily mixture, a statement shall be made in the Oil Record Book of the circumstances of, and the reasons for, the discharge. (33 CFR § 151.25(g)).

## **7. Prompt Recording of Entries**

Each operation required to be recorded in the Oil Record Book shall be fully recorded therein without delay so that all the entries in the book appropriate to that operation are completed. Each completed operation shall be signed by the person or persons in charge of the operations concerned and each completed page shall be signed by the Master. (33 CFR § 151.25(h)).

## **8. Availability for Inspection**

The Oil Record Book shall be kept in such a place as to be readily available for inspection at all reasonable times and shall be kept on board the ship. The Master shall be responsible for the maintenance of the Oil Record Book. The Oil Record Book shall be maintained on board for not less than three years. (33 CFR § 151.25(i), (j), and (k)).

## **IOPP Certificate**

### **9. IOPP Certificate**

The International Oil Pollution Prevention (IOPP) Certificate for the ship, issued in accordance with MARPOL 73/78, Annex 1, Regulation 5, shall be maintained onboard the ship at all times and shall be kept valid. (33 CFR § 151.19).

### **10. Port State Control Inspections**

While at a port or terminal under the jurisdiction of the United States, the ship is subject to inspection by the Coast Guard:

- (1) To determine that a valid IOPP Certificate is on board and that the condition of the ship and its equipment corresponds substantially with the particulars of the IOPP Certificate;

- (2) To determine that evidence of compliance with MARPOL 73/78, as required by 33 CFR § 151.21 is on board and that the condition of the ship and its equipment corresponds substantially with the particulars of this evidence of compliance;
- (3) To determine whether the ship has been operating in accordance with and has not discharged any oil or oily mixtures in violation of the provisions of MARPOL 73/78 or 33 CFR Subchapter O;
- (4) To determine whether the ship has discharged oil or oily mixtures anywhere in violation of MARPOL 73/78, upon request from a party to MARPOL 73/78 for an investigation when the requesting party has furnished sufficient evidence to support a reasonable belief that a discharge has occurred.
- (5) To determine whether the ship is in compliance with applicable international and U.S. requirements, including, but not limited to testing machinery and systems, assuring that the ship is properly manned and the crew is properly trained, and other safety aspects of the operation of the ship.

If the ship does not comply with applicable U.S. requirements or where the condition of the ship or its equipment does not substantially agree with the particulars of the IOPP Certificate or other required documentation, it may be detained by order of the Coast Guard Captain of the Port (COTP) or Officer in Charge, Marine Inspection (OCMI), at the port or terminal where the violation is discovered until, in the opinion of the detaining authority, the ship can proceed to sea without presenting an unreasonable threat of harm to the marine environment. The detention order may authorize the ship to proceed to the nearest appropriate available shipyard rather than remaining at the place where the violation was discovered.

An inspection under this section may include an examination of the Oil Record Book, the oil content meter continuous records, and a general examination of the ship. A copy of any entry in the Oil Record Book may be made and the Master of the ship may be required to certify that the copy is a true copy of such entry. (33 CFR § 151.23).

The Master and crew shall cooperate fully with the Port State Control inspection conducted by personnel of the U.S. Coast Guard.

### Shipboard Oil Pollution Emergency Plan (SOPEP)

#### 11. Contents of SOPEP

The Shipboard Oil Pollution Emergency Plan (SOPEP) shall be written in the working language of the master and officers of the ship. The SOPEP shall consist at least of:

- (1) The procedure to be followed by the master to report an oil pollution incident;
- (2) The list of authorities or persons to be contacted in the event of an oil pollution incident;
- (3) A detailed description of the action to be taken immediately by persons on board to reduce or control the discharge of oil following the incident; and
- (4) The procedures and point of contact on the ship for coordinating shipboard action with national and local authorities in combating the pollution.

## **12. Retention and Availability of SOPEP**

The SOPEP shall be retained on the ship. It shall be amended as necessary to remain current. The SOPEP shall be made available to the U.S. Coast Guard boarding officer for inspection upon request. (MARPOL 73/78, Annex I, Regulation 26 and 33 CFR § 151.29).

### **Disposal of Garbage and Waste**

## **13. Maintenance of Garbage Record Book**

The Master shall ensure that a written Garbage Record Book is maintained on the ship of each of the following garbage discharge or disposal operations:

- (1) Discharge overboard.
- (2) Discharge to another ship.
- (3) Discharge to a reception facility.
- (4) Incineration on the ship.

## **14. Information in Garbage Record Book**

The Garbage Record Book must contain the following information on each garbage discharge or disposal operation:

- (a) The date and time of the operation.
- (b) If the operation was conducted at a port, the name of the port.
- (c) If the operation was not conducted at a port, the latitude and longitude of the location where the operation was conducted and the estimated distance of that location from shore. If the operation involved off-



loading to another ship, the identity of the receiving ship by name and official number.

- (d) The amount of garbage involved, described by volume in cubic meters.
- (e) For discharges into the sea, a description of the contents of the garbage, described by the following categories:
  - (1) Plastic material.
  - (2) Floating dunnage, lining, or packing material.
  - (3) Ground paper products, rags, glass, metal, bottles, crockery, or other similar garbage.
  - (4) Unground paper products, rags, glass, metal, bottles, crockery, or other similar garbage.
  - (5) Victual wastes.
  - (6) Incinerated ash.
  - (7) Incinerated plastic residue.

#### **15. Prompt Recording of Entries in Garbage Record Book**

The garbage discharge or disposal operation entry in the Garbage Record Book must be prepared at the time of the operation, certified as correct by the master, maintained on the ship for two years following the operation, and made available for inspection by the U.S. Coast Guard boarding officer upon request. (MARPOL 73/78, Annex V, Regulation 9(3)).

#### **16. Waste Management Plan**

The Master shall ensure that the ship is not operated unless a Waste Management Plan written in the working language of the crew is on the ship and that each person handling garbage follows the plan. The Waste Management Plan must provide for the discharge of garbage by means that meet the requirements of MARPOL 73/78, Annex V, the Act to Prevent Pollution from Ships and its implementing regulations, describe procedures for collecting, processing, storing, and discharging garbage (including the use of the equipment on board), and designate the person who is in charge of carrying out the plan.

#### **17. Discharges of Garbage into U.S. Navigable Waters Prohibited**

Discharge of garbage into the navigable waters of the United States is prohibited. (33 CFR § 151.66). The navigable waters of the United States includes the internal waters and those coastal waters within three nautical miles of the shoreline.

#### **18. Discharges of Plastic into U.S. Navigable Waters Prohibited**

No person on board the ship may discharge into the navigable waters of the United States plastic or garbage mixed with plastic, including, but not limited to, synthetic

ropes, synthetic fishing nets, and plastic garbage bags. All garbage containing plastics requiring disposal must be discharged ashore or incinerated. (33 CFR § 151.67). The disposal into the sea of all plastics, including but not limited to, synthetic ropes, synthetic fishing nets, and plastic garbage bags, is prohibited. (MARPOL 73/78, Annex V, Regulation 3(1)(a)).

#### **19. Disposal of Garbage Outside Special Areas**

When operating outside of a special area, the ship may not discharge, into the sea, garbage that is separated from plastic, if the distance from nearest land is less than:

- (a) 25 nautical miles for dunnage, lining and packing materials that float; or
- (b) 12 nautical miles for victual wastes and all other garbage including paper products, rags, glass, metal, bottles, crockery and similar refuse, except that, such garbage may be discharged outside of three nautical miles from nearest land after it has been passed through a qualifying grinder or comminuter. A grinder or comminuter qualifies under this provision if garbage processed through it is required to pass through a screen with openings no greater than 25 mm.

Mixtures of garbage having different discharge requirements must be either retained on board for later disposal ashore or discharged in accordance with the more stringent requirement prescribed above. (MARPOL 73/78, Annex V, Regulation 3(2) and 33 CFR § 151.69).

#### **20. Exceptions regarding Garbage Disposal**

The restrictions with regard to the discharge of garbage at sea do not apply to discharges of garbage from a ship for the purpose of securing the safety of the ship and those on board or saving life at sea or to the escape of garbage resulting from damage to a ship or its equipment, if all reasonable precautions have been taken before and after the occurrence of the damage, to prevent or minimize the escape. (MARPOL 73/78, Annex V, Regulation 6 and 33 CFR § 151.77).

#### **21. Garbage Disposal Placards**

The ship shall display placards that notify the crew of the garbage disposal methods required by Annex V to MARPOL 73/78. The placards shall be written in the official language of the flag state and in English. (MARPOL 73/78, Annex V, Regulation 9(1)). The placards should be displayed in prominent locations and in sufficient numbers so that they can be read by the crew. Locations for the placards should include food service facilities, garbage handling spaces, and common spaces

on deck. Each placard should be at least nine inches wide by four inches high, made of a durable material, and lettered with letters at least one-eighth inch high. The placard should notify the reader of the following:

The discharge of plastic or garbage mixed with plastic into any waters is prohibited.

- (1) The discharge of all garbage is prohibited in the navigable waters of the United States and, in all other waters, within three nautical miles of the nearest land.
- (2) The discharge of dunnage, lining, and packing materials that float is prohibited within 25 nautical miles of the nearest land.
- (3) Other unground garbage may be discharged beyond 12 nautical miles from the nearest land.
- (4) Other garbage ground to less than one inch may be discharged beyond three nautical miles of the nearest land.
- (5) A person who violates the above requirements by discharging garbage in the navigable waters of the United States is liable for a civil penalty for each violation, and the criminal penalties of a class D felony.

## **22. Garbage Disposal Ashore in the United States**

The Master shall notify the port or terminal, at least 24 hours before entering the U.S. port or terminal, of the name of the ship and the estimated volume of garbage requiring disposal, if any of the following types of garbage are to be discharged:

- (a) Garbage regulated by the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture.
- (b) Medical wastes.
- (c) Hazardous wastes. (33 CFR § 151.65).

The details regarding garbage disposal ashore are located in the Waste Management Plan.

## **Ballast Water Management**

### **23. Ballast Water Management Plan.**

The ship's Ballast Water Management Plan shall identify all ballast tanks and holds on the ship, the volume of each, and the total volume of ballast water the ship is capable of carrying. The Plan shall also specify the manner for loading and unloading ballast water to and from each ballast tank and hold, the method for conducting ballast water exchange for each ballast tank or hold, and the method for conducting alternative ballast water treatment for each ballast tank or hold (if applicable). Included therein shall be a discussion of safety procedures to be

exercised and risks to be minimized during ballast water exchange or treatment. The Ballast Water Management Plan shall be made available for inspection by the U.S. Coast Guard boarding officer upon request.

The ship shall keep on board a copy of the ballast water guidelines promulgated by the International Maritime Organization (IMO) entitled: Guidelines for the control and Management of Ship's Ballast Water to Minimize the Transfer of Aquatic Organisms and Pathogens [Res. A868(20)].

#### **24. Ballast Water Management Recordkeeping**

If the ship is carrying ballast water into the United States after operating beyond the U.S. or Canadian EEZ, the Master shall keep in written form all records required by regulations promulgated by the U.S. Coast Guard.

#### **25. Voluntary Ballast Water Management Guidelines**

Whenever possible, the Master is to take the voluntary precautions to minimize the uptake and the release of harmful aquatic organisms, pathogens, and sediments recommended by the International Maritime Organization and the U.S. Coast Guard. (33 CFR § 151.2035).

#### **26. Mandatory Ballast Water Management Requirements**

If the ship is bound for the Great Lakes or the Hudson River north of the George Washington Bridge and the ship has operated beyond the U.S. or Canadian EEZ during any part of its voyage, regardless of intermediate ports of calls within the waters of the United States or Canada, the master shall comply with the mandatory ballast water management requirements promulgated by the U.S. Coast Guard.

If the ship called at neither the Great Lakes nor the Hudson River north of the George Washington Bridge, then before the ship departs from its first port of call in the waters of the United States, the Master shall submit ballast water management reports in accordance with requirements promulgated by the U.S. Coast Guard.

#### **27. Continued Applicability of Other Laws**

The ballast water management program does not authorize the discharge of oil or noxious liquid substances (NLS) in a manner prohibited by United States or international laws or regulations. Ballast water carried in any tank containing a residue of oil, NLS, or any other pollutant must be discharged in accordance with the applicable regulations. This ballast water management program also does not affect or supersede any requirement or prohibition pertaining to the discharge of

ballast water into the waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 - 1376). [33 CFR § 151.2040].

State and local governments in the United States may enact more stringent requirements with regard to ballast water management. (16 U.S.C. § 4725).

#### **28. Exception for Innocent Passage**

If the ship is merely traversing the territorial sea of the United States (i.e., not entering or departing a U.S. port, or not navigating the internal waters of the U.S.), it is exempt from the mandatory ballast water management and recordkeeping requirements noted above. However, the Master shall not, except in an emergency, discharge ballast water into the waters of the United States unless the vessel has followed the voluntary guidelines noted above. (33 CFR § 151.2015).

#### **29. Ballast Water Management Compliance Monitoring and Enforcement**

The U.S. Coast Guard boarding officer may take samples of the ship's ballast water and sediment, examine documents, and make other appropriate inquiries to assess the ship's compliance with the above provisions. The master shall cooperate fully with the compliance monitoring and enforcement efforts of the U.S. Coast Guard and shall make available to the Coast Guard the Recordkeeping information and Ballast Water Management Plan noted above upon request. (33 CFR § 151.2050).

### **Pollution Prevention – Vessel Equipment**

#### **30. Discharge Removal Equipment**

The ship shall carry appropriate equipment and supplies for the containment and removal of on-deck oil cargo spills of at least 12 barrels, as required by regulations promulgated by the U.S. Coast Guard. During cargo transfer operations, the discharge removal equipment and supplies must remain ready for immediate use. (33 CFR § 155.205).

#### **31. Internal Cargo Transfer Capability**

The ship shall carry suitable hoses and reducers for internal transfer of cargo to tanks or other spaces within the cargo block, unless the ship's installed cargo piping system is capable of performing this function. (33 CFR § 155.225).

#### **32. Emergency Towing Capability**

An emergency towing arrangement shall be fitted at both ends on board the ship. The design and construction of the towing arrangement shall be in accordance with IMO resolution MSC.35(63). (33 CFR § 155.235).

### **33. Damage Stability Information**

Damage stability and residual structural strength calculation programs, as required by regulations promulgated by the U.S. Coast Guard, for the ship will be prearranged in order that prompt access to this computerized, shore-based information may be obtained on a 24-hour basis. Vessel baseline strength and stability characteristics must be pre-entered into such programs and be consistent with the ship's existing configuration. (33 CFR § 155.240).

### **34. Containment of Oil Cargo Discharges**

The ship must have arrangements for the containment of oil cargo discharges as required by regulations promulgated by the U.S. Coast Guard. (33 CFR § 155.310).

### **35. Fuel Oil and Bulk Lubricating Oil Discharge Containment**

The ship must have a fixed container or enclosed deck area under or around each fuel oil or bulk lubricating oil tank vent, overflow, and fill pipe, that has a capacity of at least one barrel. (33 CFR § 155.320).

### **36. Bilge Slops/Fuel Oil Tank Ballast Water Discharges**

The ship shall be equipped with oily-water separating equipment and other arrangements for handling bilge slops and fuel oil tank ballast water discharges in accordance with requirements promulgated by the IMO and the U.S. Coast Guard. The Master shall ensure that the bilge monitor continuous record is maintained on board for not less than three years. (33 CFR § 155.370).

### **37. Oily-Water Separating Equipment, Bilge Alarm, and Bilge Monitoring Equipment**

The oily-water separating equipment, bilge alarms, and bilge monitors on the ship must be approved under 46 CFR § 162.050 or be listed in the current International Maritime Organization (IMO) Marine Environment Protection Committee (MEPC) Circular summary of MARPOL 73/78 approved equipment. (33 CFR § 155.380).

### **38. Standard Discharge Connections**

The ship shall be fitted with a standard discharge shore connection, for the discharge to reception facilities, of oily wastes from machinery space bilges or fuel

oil tank ballast water in conformance with the requirements of MARPOL 73/78, Annex I, Regulation 19. (33 CFR § 155.430).

**39. Segregation of Fuel Oil and Water Ballast**

No ballast water may be carried in any fuel oil tank, except in conformance with the provisions of MARPOL 73/78, Annex I, Regulation 14. (33 CFR § 155.440).

**40. Placard regarding Prohibition of Oil Discharge**

While operating in waters subject to the jurisdiction of the United States, the ship shall have a placard of at least 5 by 8 inches, made of durable material fixed in a conspicuous place in each machinery space, or at the bilge and ballast pump control station, stating the following in the language or languages understood by the crew:

Discharge of Oil Prohibited

The Federal Water Pollution Control Act prohibits the discharge of oil or oily waste into or upon the navigable waters of the United States, or the waters of the contiguous zone, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States, if such discharge causes a film or discoloration of the surface of the water or causes a sludge or emulsion beneath the surface of the water. Violators are subject to substantial civil penalties and/or criminal sanctions including fines and imprisonment.

(33 CFR § 155.450).

**41. Prohibited Spaces for Carriage of Oil**

Oil or hazardous material must not be carried in the forepeak tank or any tank forward of the collision bulkhead. (MARPOL 73/78, Annex I, Regulation 14(4) and 33 CFR § 155.470).

**42. Overfill Devices**

The ship shall have overfill devices and related equipment in accordance with requirements promulgated by the U.S. Coast Guard. (33 CFR § 155.480).

**Pollution Prevention – Transfer Personnel and Procedures**

**43. Designation of Person in Charge of Transfer**

The Master shall designate, either by name or by position in the crew, the person in charge (PIC) of each transfer of fuel oil and cargo oil to or from the vessel and of each tank-cleaning. (33 CFR § 155.700).

#### **44. Qualifications of Person in Charge**

No one will be designated as a PIC unless he or she has the qualifications specified in regulations promulgated by the U.S. Coast Guard. (33 CFR § 155.710).

#### **45. Contents of Letter of Designation**

The PIC letter of instruction must designate the holder as a person-in-charge of the transfer of oil and state that the holder has received sufficient formal instruction to ensure his or her ability to safely and adequately carry out the duties and responsibilities of the PIC with respect to transfers and Declarations of Inspection. (33 CFR § 155.715).

#### **46. Transfer Procedures**

Written transfer procedures shall be maintained for transferring oil in bulk:

- (a) To or from the vessel; and
- (b) From tank to tank within the vessel. (33 CFR § 155.720).

#### **47. Compliance with Transfer Procedures**

The transfer procedures shall be kept current. Vessel personnel shall be required to use the transfer procedures for each transfer operation. (33 CFR § 155.730).

#### **48. Availability of Transfer Procedures**

The transfer procedures must be:

- (a) Available for inspection by the U.S. Coast Guard whenever the vessel is in operation in waters subject to the jurisdiction of the United States;
- (b) Legibly printed in a language or languages understood by personnel engaged in transfer operations; and
- (c) Permanently posted or available at a place where the procedures can be easily seen and used by members of the crew when engaged in transfer operations. (33 CFR § 155.740).

#### **49. Contents of Transfer Procedures**

The transfer procedures must contain, either in the order listed or by use of a cross-reference index page, the provisions specified in regulations promulgated by the U.S. Coast Guard. (33 CFR § 155.750).



**50. Amendment of Transfer Procedures**

The transfer procedures shall be amended as required by the U.S. Coast Guard. (33 CFR § 155.760).

**51. Draining into Bilges Prohibited**

No person may intentionally drain oil or hazardous material from any source into the bilge of the ship. (33 CFR § 155.770).

**52. Maximum Cargo Level of Oil**

No cargo tank on the ship may be filled with oil higher than:

- (1) 98.5 percent of the cargo tank volume; or
- (2) The level at which the overfill alarm is set. (33 CFR § 155.775).

**53. Emergency Shutdown**

The ship shall have on board an emergency means to enable the person in charge of a transfer operation to a facility, to another vessel, or within the vessel to stop the flow of oil. The means to stop the flow may be a pump control, a quick-acting, power actuated valve, or an operating procedure. If an emergency pump control is used, it must stop the flow of oil if the oil could siphon through the stopped pump. The means to stop the flow must be operable from the cargo deck, cargo control room, or the usual operating station of the person in charge of the transfer operation. (33 CFR § 155.780).

**54. Communications**

During vessel to vessel transfers, the ship shall have a means that enables continuous two-way voice communication between the persons in charge of the transfer operations on both vessels. The ship and the other vessel involved in the transfer must have a means, which may be the communication system itself, that enables a person on board each vessel to effectively indicate his desire to use the means of communication. The means of communication must be usable and effective in all phases of the transfer operation and all conditions of weather. Portable radio devices used as a means of communication during the transfer of flammable or combustible liquids must be intrinsically safe. (33 CFR § 155.785).

**55. Deck Lighting**

The ship, while conducting transfer operations between sunset and sunrise, shall have deck lighting that complies with regulations promulgated by the U.S. Coast Guard. (33 CFR § 155.790).

#### **56. Transfer Hoses**

Hoses used to transfer oil must conform to regulations promulgated by the U.S. Coast Guard. (33 CFR §§ 155.800 and 154.500).

#### **57. Closure Devices**

Except for new, unused hose, each end of each transfer hose on board the ship which is not connected for the transfer of oil must be blanked off with butterfly valves, wafer-type resilient seated valves, blank flanges, or other means acceptable to the U.S. Coast Guard. (33 CFR § 155.805).

#### **58. Tank Vessel Security**

When the ship contains more oil than the normal clingage and unpumpable bilge or sump residues in any cargo tank, the Master shall maintain surveillance of the ship by using a person who is responsible for the security of the vessel and for keeping unauthorized persons off the vessel. (33 CFR § 155.810).

#### **59. Tank Vessel Integrity**

The ship when underway or at anchor in U.S. waters shall maintain tank vessel integrity by operating in compliance with pertinent regulations promulgated by the U.S. Coast Guard. (33 CFR § 155.815).

#### **60. Transfer Records**

The Master shall ensure that the oil transfer records required by the U.S. Coast Guard are maintained on the ship and made available to the U.S. Coast Guard upon request. (33 CFR § 155.820).

#### **OPA 90 Vessel Response Plan**

#### **61. Approved Vessel Response Plan Required**

The ship shall not conduct operations in waters subject to the jurisdiction of the United States unless it has on board a valid Vessel Response Plan that has been prepared in accordance with the Oil Pollution Act of 1990 (OPA 90) and is approved by the U.S. Coast Guard. (33 CFR Part 155, Subpart D).

**62. Removal Actions in accordance with Vessel Response Plan**

Oil spill removal operations shall be conducted in accordance with the approved OPA 90 Vessel Response Plan unless deviation therefrom is authorized by the U.S. Coast Guard. (33 U.S.C. § 1321(c)(3)(B)).

**Oil Transfer Operations**

**63. Compliance with Suspension Order**

The Master shall fully comply with any suspension order that has been issued by the U.S. Coast Guard. (33 CFR § 156.113).

**64. Person in Charge: Limitations**

The Person in Charge (PIC) of transfer operations on the ship may not serve as the PIC for another vessel or for a facility while the ship is engaged in transfer operations with another vessel or a facility. (33 CFR § 156.115).

**65. Requirements for Transfer**

Transfers of oil shall be conducted in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 156.120).

**66. Stoppage during Discharge Cleanup**

The transfer operation shall be stopped by the PIC whenever oil or hazardous material from any source is discharged:

- (1) In the transfer operation work area; or
- (2) Into the water or upon the adjoining shoreline in the transfer area.

Except as authorized by the U.S. Coast Guard, the transfer operation may not be resumed after it has been stopped due to a discharge unless:

- (1) The oil or hazardous material discharged in the transfer operation work area is cleaned up; and
- (2) The oil or hazardous material discharged into the water or upon the adjoining shoreline is cleaned up, or is contained and being cleaned up. (33 CFR § 156.125).

**67. Connection for Transfer Operations**

Connections of hoses and couplings for oil transfer operations shall be made in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 156.130).

**68. Declaration of Inspection**

No oil transfer operations will be made before the Declaration of Inspection form has been completed in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 156.150).

**69. Supervision by Person in Charge**

Oil transfer operations on the ship will be supervised by the Person in Charge as required by regulations promulgated by the U.S. Coast Guard. (33 CFR § 156.160).

**70. Equipment Tests and Inspections**

Equipment used in oil transfer operations on the ship shall be tested and inspected in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 156.170).

**Lightering Operations**

**71. General Lightering Requirements**

The ship may not transfer oil in a port or place subject to the jurisdiction of the United States, if the cargo has been lightered from another vessel in the U.S. marine environment beyond the baseline from which the territorial sea is measured, unless the lightering is conducted in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 156.210).

**72. Pre-Arrival Notices regarding Lightering**

If the ship is to be lightered, the Master shall ensure that the U.S. Coast Guard Captain of the Port (COTP) nearest the lightering location or zone is provided at least 24 hours advance notice, prior to the ship's arrival in the lightering location or zone, as required by regulations promulgated by the U.S. Coast Guard. (33 CFR § 156.215).

**73. Reporting of Lightering Incidents**

If the ship is acting as the service vessel in a lightering operation and if fire, explosion, collision, grounding or any similar emergency, which poses a threat to the vessels involved, occurs during lightering, the Master shall make an immediate

report to the nearest Captain of the Port. Likewise, if any discharge of oil or hazardous material into the water occurs during a lightering operation during which the ship is acting as the service vessel, the Master shall report that occurrence in accordance with the procedures specified in MARPOL 73/78, Protocol I and 33 CFR § 151.15. (33 CFR § 156.220).

#### **74. Prohibited Lightering Areas**

The ship shall not conduct lightering operations in prohibited areas of the Gulf of Mexico as defined in regulations promulgated by the U.S. Coast Guard. (33 CFR § 156.310)

#### **75. Operations in Designated Lightering Zones**

When engaged in lightering operations in a designated lightering zone in the Gulf of Mexico, the Master shall ensure that operations are conducted in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR §§ 156.300; 156.320; 156.330).

### **Protection of the Marine Environment Design and Equipment**

#### **76. Pumping, Piping, and Discharge Arrangements**

The ship shall have a fixed piping system for transferring cargo residues and other oily mixtures from cargo tanks to slop tanks and for discharging oily mixtures to the sea and to reception facilities that meets the requirements of MARPOL 73/78, Annex I, Regulation 18. (33 CFR § 157.11).

#### **77. Cargo Monitor and Control System**

The ship shall have, for each type of cargo oil that it carries, at least one cargo monitor that is designed for use with that oil. Each monitor must meet the requirements of MARPOL 73/78, Annex I, Regulation 16. Each monitor must be fitted in accordance with the requirements of MARPOL 73/78, Annex I, Regulation 15(3). (33 CFR § 157.12).

#### **78. Designated Observation Area**

The ship shall have a designated observation area on the weather deck or above that meets the requirements of regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.13).

#### **79. Slop Tanks**

The ship shall be equipped with slop tanks that meet the requirements of MARPOL 73/78, Annex I, Regulation 15. (33 CFR § 157.15).

#### **80. Oily Residue (Sludge) Tanks**

The ship shall be equipped with oily residue (sludge) tanks that meet the requirements of MARPOL 73/78, Annex I, Regulation 17. (33 CFR § 157.17).

#### **81. Cargo Tank Arrangement and Size**

The cargo tanks on the ship shall meet the arrangement and size requirements of MARPOL 73/78, Annex I, Regulation 24. (33 CFR § 157.19).

#### **82. Subdivision and Stability**

The ship shall comply with the subdivision and stability requirements of MARPOL 73/78, Annex I, Regulation 25. (33 CFR § 157.21).

#### **83. Cargo and Ballast System Information**

The ship shall have an instruction manual that describes the automatic and manual operation of the cargo and ballast system in the ship. The format and information contained in the instruction manual shall be similar to the manual entitled "Clean Seas Guide for Oil Tankers" which can be obtained from the International Chamber of Shipping, 12 Carthusian Street, London, England, EC1M 6EB. (33 CFR § 157.23).

The Master shall ensure that the instruction manual is available and used when the cargo or ballast systems are operated. (33 CFR § 157.49).

### **Protection of the Marine Environment - Operations**

#### **84. Discharges of Oily Mixtures**

Except for discharges in accordance with MARPOL 73/78, Annex I, Regulation 9, the ship shall not discharge into waters subject to the jurisdiction of the United States any oily mixtures. Such oily mixtures will either be retained on board or transferred to a reception facility. (33 CFR § 157.29).

#### **85. Chemical Additives Prohibited**

Chemical additives may not be used to circumvent the U.S. discharge requirements. (33 CFR § 157.31).

**86. Ballast Water in Oil Fuel Tanks**

The ship may not carry ballast water in an oil fuel tank. (33 CFR § 157.33).

**87. Ballast Added to Cargo Tanks**

The Master shall ensure that ballast water is carried in a cargo tank, if at all, only in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.35).

**88. Discharge of Cargo Residue**

The ship shall only discharge cargo residue in accordance with MARPOL 73/78, Annex I, Regulation 9. (33 CFR § 157.37).

**89. Emergencies**

The prohibitions on discharges into the sea of oil and oily mixtures do not apply in instances covered by MARPOL 73/78, Annex I, Regulation 11. (33 CFR § 157.41).

**90. Discharges of Clean and Segregated Ballast**

Clean ballast may not be discharged overboard into the navigable waters of the United States except in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.43).

**91. Valves in Cargo or Ballast Piping**

When the ship is at sea and the tanks contain oil, valves and closing devices in the cargo or ballast piping system or in the transfer system must be kept closed except they may be opened for cargo or ballast transfer to trim the vessel. (33 CFR § 157.45).

**92. Information for Master**

The Master shall operate the vessel in accordance with the information required in MARPOL 73/78, Annex I, Regulation 25. (33 CFR § 157.47).

**Segregated Ballast Tanks and Dedicated Clean Ballast Tanks**

**93. General Requirement regarding Ballast Tanks**

The ship shall be equipped with segregated ballast tanks and dedicated clean ballast tanks that meet the requirements of MARPOL 73/78, Annex I, Regulations 13, 13A, and 13E. (33 CFR §§ 157.10 and 157.10a).

**94. Required Documents regarding Ballast Tanks**

The Master shall ensure that the ship does not enter the navigable waters of the United States or transfer cargo at a port or place subject to the jurisdiction of the United States unless the ship has on board the documents specified in applicable regulations promulgated by the U.S. Coast Guard, including a the *Dedicated Clean Ballast Tanks Operations Manual*. (33 CFR § 157.216(a)).

**95. Operation of Dedicated Clean Ballast Tanks**

The Master shall ensure that the ship's dedicated clean ballast tanks, if so equipped, are operated in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.225).

**96. Compliance with Dedicated Clean Ballast Tank Operations Manual**

While the ship is operating in the navigable waters of the United States or transferring cargo at a port or place subject to the jurisdiction of the United States, the Master shall ensure that the procedures listed in the *Dedicated Clean Ballast Tanks Operations Manual* are followed. (33 CFR § 157.226).

**97. Closure of Isolating Valves during Voyage**

The Master shall ensure that the valves associated with the Dedicated Clean Ballast Tanks remain closed when the ship is on a voyage in the navigable waters of the United States. (33 CFR § 157.228).

**Crude Oil Washing (COW) System**

**98. General Requirement regarding Crude Oil Washing**

The ship shall be equipped with a crude oil washing (COW) system that meets the design, equipment, and installation requirements of MARPOL 73/78, Annex I, Regulations 13 and 13B. (33 CFR §§ 157.10(e) and 157.10a(a)(2) and 33 CFR Part 157, Subpart D).

**99. Crude Oil Washing Operations and Equipment Manual**

The Master shall ensure that the ship does not enter the navigable waters of the United States or transfer cargo at a port or place subject to the jurisdiction of the



United States unless it has on board a *Crude Oil Washing Operations and Equipment Manual* that meets the manual standards in Resolution 15 of the MARPOL Protocol and complies with regulations promulgated by the U.S. Coast Guard (33 CFR § 157.118(a)).

#### **100. Crude Oil Washing Personnel**

The Master shall ensure that the person designated as the person in charge of COW operations and each member of the crew that has a designated responsibility during COW operations meet the requirements of applicable regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.152).

#### **101. Crude Oil Washing Operations**

The Master shall ensure that crude oil washing operations are conducted in accordance with applicable regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.155).

#### **102. Meeting COW Manual Requirements**

The Master shall ensure, while the ship is operating in the navigable waters of the United States or transferring cargo at a port or place subject to the jurisdiction of the United States, that during each COW operation is conducted in accordance with applicable regulations promulgated by the U.S. Coast Guard. (33 CFR §§ 157.156; 157.158).

#### **103. Tanks: Ballasting and Crude Oil Washing**

The Master shall ensure that ballasting of cargo tanks, if undertaken at all, is conducted in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.160(b)).

#### **104. Crude Oil Washing during a Voyage**

The Master shall ensure that each cargo tank that is crude oil washed during a voyage other than a ballast voyage, if undertaken at all, is done so in accordance with regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.162).

#### **105. Use of the Inert Gas System with COW**

The Master shall ensure the inert gas system, if the ship is so equipped, is operated in a manner consistent with regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.164).

## **106. Hydrocarbon Emissions during Ballasting**

If the ship transfers cargo at a port in the United States, the Master shall ensure that when cargo tanks are ballasted in that port the hydrocarbon vapors in each tank are contained as required in regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.166).

## **107 Crew Member Watch during COW Operations**

During COW operations, the Master shall ensure that at least one member of the crew with a designated responsibility for monitoring COW operations is on the main deck at all times. (33 CFR § 157.168).

## **108 Removal of COW Equipment**

Whenever a deck mounted COW machine is removed from the tank, the Master shall ensure that such removal and reinstallation is done in accordance with applicable regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.170).

## **109. Limitations on Grades of Crude Oil Carried**

If the ship does not have segregated ballast tanks or dedicated clean ballast tanks that meet the requirements of MARPOL 73/78, the Master shall ensure that the vessel carries only the grades of crude oil that can be used for crude oil washing. (33 CFR § 157.172).

## **Interim Measures**

### **110. Emergency Lightering Requirements**

While operating in waters subject to the jurisdiction of the United States, the ship shall carry the emergency lightering equipment specified in regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.410).

### **111. Bridge Resource Management Policy and Procedures**

The ship shall be provided with written policy and procedures to the Master and officers in charge of the navigational watch concerning the need for continuously reassessing how bridge-watch resources are being allocated and used, based on bridge resource management principles. These written policy and procedures shall meet the requirements of applicable regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.415).

### **112. Ship Specific Watch Policy and Procedures**

The ship shall be provided written policy and procedures to the Master concerning the need for each individual who is newly employed on board the vessel to have a reasonable opportunity to become familiar with the shipboard equipment, operating procedures, and other arrangements needed for the proper performance of their duties, before being assigned to such duties. This written policy and procedures shall be followed by the Master and shall meet the requirements of applicable regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.420).

### **113. Enhanced Survey Requirements**

Beginning at the ship's next drydock after July 30, 1996, and continuing as required under the ship's flag administration, a ship shall implement an enhanced survey program that complies with the standards of IMO Resolution A.744(18), Annex B sections 1.1.3-1.1.4, 1.2-1.3, 2.1, 2.3-2.6, 3-8, and Annexes 1-10 with appendices. (33 CFR § 157.430).

### **114. Vital Systems Surveys**

Surveys of the vital systems on the ship are to be conducted in accordance with applicable regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.435).

### **115. Autopilot Alarm or Indicator**

Each installed autopilot unit on the ship without automatic manual override shall be equipped with an audible and visual alarm, which is distinct from other required bridge alarms, that will activate if the helm is manually moved while the autopilot is engaged. (33 CFR § 157.440).

### **116. Maneuvering Performance Capability**

The ship shall not be operated in waters subject to the jurisdiction of the United States until maneuvering tests in accordance with IMO Resolution A.751(18), sections 1.2, 2.3-2.4, 3 4.2, and 5 (with Explanatory Notes in MSC/Circ.644) have been conducted and the results thereof are displayed in the wheelhouse of the ship, as required by regulations promulgated by the U.S. Coast Guard. Prior to entering the port or place of destination and prior to getting underway, the Master shall discuss the results of the performance tests with the pilot while reviewing the anticipated transit and the possible impact of the ship's maneuvering capability on the transit. (33 CFR § 157.445).

### **117. Maneuvering and Vessel Status Information**

The Master shall comply with IMO Resolution A.601(15), Annex sections 1.1, 2.3, 3.1, and 3.2, with appendices regarding maneuvering and vessel status information. (33 CFR § 157.450).

#### **118. Minimum Under-Keel Clearance**

The ship shall not operate in waters subject to the jurisdiction of the United States except in conformance with the minimum under-keel clearance regulations promulgated by the U.S. Coast Guard. (33 CFR § 157.455).

#### **Marine Sanitation Devices**

#### **121. Sewage Discharge Restrictions**

Sewage will not be discharged into the navigable waters of the United States except in accordance with the regulations promulgated by the U.S. Coast Guard. (33 CFR § 159.7).

## APPENDIX F

### Contacting the Corporate Compliance Officer

The Corporate Compliance Officer is a vital Anax asset. That officer is available to all Directors, Officers, employees, crew members, and agents of Anax on a 24-hour basis. When questions arise regarding the Maritime Compliance Program that can not be answered locally, the Corporate Compliance Officer should be contacted by means appropriate to the urgency of the question.

The Corporate Compliance Officer is \_\_\_\_\_. The telephone number is 44-171-987-6900. The telefax number is 44-171-538-2048. The pager number is \_\_\_\_\_.

The Corporate Compliance Officer (and his or her successors) is responsible for ensuring that the identity and contact numbers for the Corporate Compliance Officer are kept up to date.

## APPENDIX G

### Remedial Action

Following is a summary of the basic procedures to be followed whenever there is any damage to the ship or any discharge or other pollution incident. This summary is intended to highlight some of the procedures that may be found in detail in the ship's Vessel Response Plan (VRP), Shipboard Oil Pollution Emergency Plan (SOPEP), and similar emergency preparedness guidelines. Written plans can not anticipate every possible situation. The Master is expected to respond reasonably to any and all emergencies that may be encountered. During the response, the Master is to be guided by the basic principle that safety of life is foremost. Safety of the ship and the environment are next in importance.

Whenever there is an incident involving the ship (whether at sea or in port) that causes damage or suspected damage to the ship, the Master shall ensure that a prompt and thorough inspection is undertaken immediately. If the ship has incurred damage, the Master shall, once the situation is stabilized, notify, among others, the Corporate Compliance Officer, the appropriate government authorities, and the classification society. A copy of any damage report prepared by a classification society surveyor shall be retained by the Corporate Compliance Officer.

Any restrictions placed on the operation the ship by a classification society surveyor or by a Port State Control officer (whether by means of a Captain of the Port Order or otherwise) shall be fully complied with. Disputes over the propriety or necessity for such restrictions may be properly appealed through the classification society or Port State Control system, but, until and unless such restrictions are removed or amended, they will remain in effect and will be fully complied with. Neither the Master of the ship nor the Corporate Compliance Officer is authorized to direct unilateral deviations from those restrictions.

## APPENDIX H

### Inspection and Auditing

The ship is to be inspected by an individual appointed by the Corporate Compliance Officer at least yearly to ensure that all pollution prevention systems and equipment are properly functioning, that there is no visible damage to the ship that needs to be repaired and that the crew is properly trained. The original of the inspection report shall be retained by the Corporate Compliance Officer.

The independent auditing firm will inspect the ship and the Company at least yearly to ensure that the ship and the Company are operating in a manner consistent with the Maritime Compliance Program. The original of the report to the independent auditing firm will be retained by the Corporate Compliance Officer. The independent auditing firm will also send copies of the report the U.S. Coast Guard and the U.S. Environmental Protection Agency at the following addresses:

U.S. Coast Guard Marine Safety Office San Francisco Bay  
Building 14, Coast Guard Island  
Alameda, CA 94501-5000  
United States of America

U.S. Environmental Protection Agency, Region IX  
Attn: Regional Counsel  
215 Fremont Street  
San Francisco, CA 94105  
United States of America