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上海—2015年6月1日発効 船舶による汚染防止に関する上海新規則について

題記の件に関し、中国のコレスポンデント Huatai Insurance Agency & Consultant Service Ltd., Shanghai Branch より添付の情報を受領しましたので当組合試訳並びに規則の英訳とともにご参考に供します。

以上

日本船主責任相互保険組合

添付 1 : Huatai Insurance Agency & Consultant Service Ltd., Shanghai Branch からの情報

添付 2 : 当組合試訳

添付 3 : 規則英訳

**New Regulation on Shanghai Port Anti-pollution for Ships took effect from 1st June, 2015
(No. 28 Order of the People's Government of Shanghai Municipality)**

On 2nd April 2015, People's Government of Shanghai Municipality issued No. 28 Order on “Regulation on Shanghai Port Anti-pollution for Ships” for preventing ship pollution and pertinent contamination in Shanghai port and it took effect from 1st June 2015.

Huatai Shanghai Branch has been in receipt of many inquiries from members upon the captioned regulation. We perused it and consulted with Shanghai MSA by tele-conversation in regards to amendments’ details and listed it below for your easy reference:

The new regulation is an updating version with total of 33 articles, 14 articles deleted and 13 articles added, which is based on 1996 Ship Pollution Prevention Rules of Shanghai Port.

The new regulation covers the whole Shanghai Port including in river ports and sea ports.

Article 29 to article 31 of 5th chapter clearly listed 8 illegal activities will be fined between RMB1,000(min) and RMB200,000(max) by Shanghai MSA law enforcement.

Any vessel who has 4 illegal activities of the followings will be fined for RMB1,000 to RMB10,000 / RMB10,000 to RMB50,000 in serious cases.

- 1) The vessel carrying pollution hazard cargo did not install Automatic Identification System (AIS) and no record cargo information clearly.
- 2) The vessel unsealing pollution discharge equipment did not report to the Maritime Administration if the administration had sealed the equipment before.
- 3) The vessel did not report the operating time and quantity of followings to the Maritime Administration by very high frequency (VHF), telephone call in advance.
 - AA: washing cabins, discharging gas, discharging ballast water, collecting residual oil or oily waste water, hull cleaning, painting
 - BB: ship-to-ship transfer of bulk liquid cargo apt to cause pollution damage
 - CC: dismantling, salvage, repair and building of ship, etc
- 4) The vessel did not fill out “Ship/Shore Safety Check List” as required.

Any vessel who has illegal activity of the following will be fined for RMB20,000 to RMB50,000 / RMB50,000 to RMB200,000 in serious cases.

5) Discharge sludge oil in Huangpu River or in water conservation districts or marine conservation areas.

Any vessel who has illegal activities of the followings will be fined for RMB20,000 to RMB50,000.

6) Wash deck with contaminants and vessel washing in water conservation districts or marine conservation areas.

Any vessel who has illegal activities of the followings will be fined for RMB10,000 to RMB100,000.

7) All the underway vessels in Shanghai did not comply with the provision or did not meet a fuel criterion ruled by national and shanghai government.

Any vessel who has illegal activities of the followings will be fined for RMB10,000 to RMB50,000.

8) The vessel breached of the regulation and used oil dispersant in water conservation districts or marine conservation areas.

“low sulfur fuel limit”

We noted many members also inquiry upon new fuel requirement - “low sulfur fuel limit” and accordingly, we noted that Article 11, Paragraph 2 states "Shanghai City encourages the low sulphur oil fueled by vessels or clean energy utilization." Thus, we suggest it is not compulsory standard at this stage.

“shore power supply”

In the Article 12, it states that Shanghai Transport Administration shall boost shore power supply and equipment in its ports gradually. If any wharf has equipped the shore power supply ship's engine at this stage, the vessel should shut down its fuel generator.

Finally we advised that all the items in this regulation shall be perused by owners or their management companies in advance before their vessel calling Shanghai from now on in case of any penalization strictly.

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2015年6月1日発効**船舶による汚濁防止に関する上海新規則 (No.28 Order)**

2015年4月2日、上海市人民政府は上海港での船舶からの汚濁防止に関する「船舶による上海港汚濁防止規則」について No.28 Order を発行し、同 Order は 2015年6月1日に発効した。

Huatai Shanghai Branch は当該規則に関し多数の照会を受けており、規則の詳細について上海 MSA に確認した。以下、確認内容をご案内する。

新規則は、上海港の 1996 年船舶による汚濁防止規則をベースとし、33 の条項をアップデート、14 の条項を削除、13 の条項を追加するものである。

新規則は川港及び海港を含む全上海港をカバーする。

第 5 章の 29 条から 31 条では 8 項目の違反行為を規定しており、当該違反行為に対しては RMB1,000(約 USD160)から RMB200,000(約 USD32,000)の過怠金が課される。

次の 4 項目のいずれかの違反行為を行った船舶に対しては、RMB1,000(約 USD160)から RMB10,000(約 USD1,600)、もしくは深刻な違反の場合には RMB10,000(約 USD1,600)から RMB50,000(約 USD8,000)の過怠金が課される。

- 1) 汚濁危険貨物を積載している船舶が、自動船舶識別装置(AIS)を搭載せず、貨物情報を正確にインプットしていなかった場合
- 2) MSA により汚物排出装置の封印がなされた後、その封印を解いたことについて MSA に報告しなかった場合
- 3) 以下の作業時間及び数量について予め VHF や電話で MSA に報告しなかった場合
AA: キャビンの洗浄、ガス排出、バラスト水排出、残油及び油排水の処理、船体洗浄やペインティング等、
BB: 汚濁損害につながる可能性のあるばら積み液体貨物の STS(Ship to Ship)移送
CC: 船舶解体、救助、修理、建造等
- 4) 義務付けられた Ship/Shore Safety Check List を提出しなかった場合

次の違反行為を行った船舶に対しては、RMB20,000(約 USD3,200)から RMB50,000(約 USD8,000)、もしくは深刻な違反の場合には RMB50,000(約 USD8,000)から RMB200,000(約 USD32,000)の過怠金が課される。

5) Huangpu River もしくは保護エリアでのスラッジオイルの排出

次の違反行為を行った船舶に対しては、RMB20,000(約 USD3,200)から RMB50,000(約 USD8,000)の過怠金が課される。

6) 汚濁物質が付着しているデッキの洗浄、もしくは保護エリアでの洗浄

次の違反行為を行った船舶に対しては、RMB10,000(約 USD1,600)から RMB100,000(約 USD16,000)の過怠金が課される。

7) 上海を航行する船舶が中国及び上海の燃料油基準規制を遵守しなかった場合

次の違反行為を行った船舶に対しては、RMB10,000(約 USD1,600)から RMB50,000(約 USD8,000)の過怠金が課される。

8) 規則に違反して保護エリアで油処理剤を使用した場合

「低硫黄燃料油」について

低硫黄燃料油の基準について多くの照会を受けている。Article 11 は、「上海市は船舶による低硫黄燃料油及びクリーンエネルギーの使用を推奨する」と規定しており、現段階では低硫黄燃料油の使用は強制ではないと理解している。

「陸上での電源供給」について

Article 12 は、上海運輸当局は順次港湾における電力供給設備の普及に努めると規定している。陸上電源が設置されている場合、船舶は燃料発電機を停止すべきである。

上海寄港前に本規則について熟知しておくことを勧める。

以上

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The Measures for the Prevention and Control of Ship Pollution in Shanghai Port

(Promulgated under Order No.28 of the People's Government of the Shanghai
Municipality on April 2, 2015)

Chapter I General Principles

Article 1 (Purpose and Basis)

These Measures are formulated in accordance with relevant laws and regulations such as the Marine Environment Protection Law of the People's Republic of China, the Law of the People's Republic of China on Prevention and Control of Water Pollution, the Regulations on Administration of the Prevention and Control of Marine Environment Pollution Caused by Vessels and the Regulations of Shanghai Municipality on Prevention and Control of Atmospheric Pollution and in combination with factual situations of this Municipality, for the purpose of preventing and controlling environment pollution caused to this Municipality by vessels and their relevant operations.

Article 2 (Scope of Application)

These Measures shall apply to the prevention and control of environment pollution caused to Shanghai port by vessels and their relevant operations.

Article 3 (Administration Department)

Shanghai Maritime Safety Administration of the People's Republic of China and all local maritime safety agencies of various levels of this Municipality (hereinafter collectively referred to as "maritime safety agencies"), pursuant to their respective duties, are responsible for supervision and administration on prevention and control of environment pollution caused by vessels and their relevant operations.

Administrative departments of this Municipality, such as the department of

development and reform, the transportation department, the department of environmental protection, the water department, the marine department, the landscaping department, the department of technology and the financial department, etc, shall, pursuant to their respective duties, properly do relevant work of prevention and control of environment pollution caused by vessels and their relevant operations.

Chapter II Control on Discharge of Vessel Pollutants

Article 4 (Requirements on Allocation and Use of Vessel's Facilities for Prevention of Pollution)

Structure, equipment and devices of vessel shall comply with norms and standards of the State concerning prevention and control of pollution caused by vessels as well as requirements in international treaties concluded or acceded to by the People's Republic of China, and shall be kept in good technical conditions.

A vessel carrying cargo apt to cause pollution shall, pursuant to regulations of the State, install with automatic identification system (AIS), and shall input cargo information accurately.

Article 5 (Requirements of Prohibiting from Discharging into Certain Waters)

Vessels are prohibited from discharging oily waste water into Huangpu River.

Vessels are prohibited from discharging domestic sewage, oily waste water or ballast water into protection zones such as water sources protection zones, quasi-water sources protection zones and marine sanctuaries, etc (hereinafter referred to as "special protection zones").

Article 6 (Collection of Vessel Pollutants)

In respect of vessel pollutants that do not meet the discharging requirements, the vessel shall discharge them to the collection facilities of ports, or have them collected

by units collecting vessel pollutants.

A unit collecting vessel pollutants shall, upon completion of pollutants collection operation, provide the vessel pollutant-collecting document to the vessel from which it collected vessel pollutants. The documents shall be signed by the master of the vessel for confirmation. The vessel pollutant-collecting document shall show content such as the name of the operating unit, names of both vessels, time, place as well as types and quantity of pollutants, etc.

A vessel shall bring corresponding record book and vessel pollutant-collecting document to maritime safety agency to handle certificate of vessel pollutant collection, and keep such certificate in corresponding record book for future examination and verification. Vessels that are limited to navigation within port may handle the certificate of vessel pollutant collection within one month after completion of collection operation.

Article 7 (Classified in Different Categories for Collection of Garbage)

A vessel shall, pursuant to rules of the State and this Municipality, classify the garbage in different categories for collection and storage.

Garbage containing toxic and harmful substances or other dangerous components shall be stored separately. Where they are not stored separately, the unit collecting vessel pollutants may refuse to collect the same, or collect all garbage as dangerous wastes.

Article 8 (Lead Sealing)

Maritime safety agencies may take lead sealing measure to pollutant discharge equipments of the following vessels:

- (1) Vessels navigating, berthing or operating within Shanghai port for more than 30 days;

(2) Vessels under repair in dockyards.

Where such vessel needs to unseal the pollutant discharge equipments, it shall report and explain the reason to the maritime safety agency in advance; if the pollutant discharge equipments must be unsealed under an urgent circumstance endangering the safety of the vessel, the maritime safety agency shall be reported to as soon as possible after unsealing such pollutant discharge equipments. Unsealing situation shall be truthfully recorded in engine logbook of that day.

Article 9 (Requirements of Washing Deck)

Decks of a vessel shall be cleaned out before being washed. A vessel shall not wash its decks in one of the following situations:

- (1) Deck is contaminated with pollutants;
- (2) The vessel is staying/navigating in special protection zones.

Article 10 (Requirements for Atmospheric Emission by Vessel)

A vessel shall not discharge pollutants, in excess of the standard of the State and this Municipality, to the atmosphere. Vessels engaged in international voyage shall meet the requirements of relevant international treaties concluded or acceded to by China.

Vessels are prohibited from using incinerator in Shanghai port.

Article 11 (Requirements for Use of Fuel Oil by Vessels)

Vessels navigating, berthing or operating in Shanghai port shall use fuel oil that meet with the quality standard stipulated by the State and this Municipality.

This Municipality encourages vessels to use low sulfur fuel oil and clean energy.

Article 12 (Supply of Shore Power)

Administrative department of communications of this Municipality shall, in

conjunction with other administrative departments, such as the department of development and reform, the department of environmental protection, the department of science and technology and the financial department, etc, promote the development of shore power facilities in Shanghai port, encourage and support docks to build shore power facilities.

Where a vessel berths to a dock that equips with shore power facilities, if condition of changing to use shore power is met, such vessel shall shut down fuel generator and use shore power.

Article 13 (Requirements for Use of Sound-making Apparatus)

When a vessel navigates, berths or operates in waters within Shanghai port, it shall strengthen on look-out, and under the circumstance of not endangering the navigation safety of such vessel itself and other vessels, such vessel shall reduce in using or shall not use sound-making apparatus.

Article 14 (Prevention and Control of Vessel Noise)

When a vessel navigates or operates in/at navigable section or dock adjacent to buildings that are sensitive to noises, the noises produced by such vessel shall meet with regulations of the State for vessel noise levels.

Hang-screw motor-boats are prohibited from navigating, berthing or operating in any inland river navigable waters of this Municipality.

**Chapter III Prevention and Control of Pollution Caused by Relevant Operations
of Vessels**

Article 15 (Report of Operation)

Where a vessel is to conduct the following operations in waters within Shanghai port, it shall, in addition to handling relevant formalities in accordance with laws and

regulations, report information such as the operation time and quantity to the maritime safety agency through instant messaging channel, such as VHF and telephone calls, before these operations are commenced.

- (1) Cleaning vessel cabins, washing vessel cabins, discharging gas, discharging ballast water, collecting residual oil, collecting oily waste water, gunwale rust-eradicating and paint coating;
- (2) ship-to-ship transfer of bulk liquid cargo apt to cause pollution damage;
- (3) the operation of ship dismembering, ship salvaging, ship building or repairing in the sea, or any other surface or under-water ship construction or repairs.

Upon receipt of report, the maritime safety agency may supervise such operations by on-site inspection and video surveillance, etc.

Article 16 (Prevention and Control of Pollution Caused by Ship Building and Repairing in the Sea)

Before commencing ship building or repairing in the sea, the vessel shall introduce the property, quantity, type and location of pollutants onboard to the ship building and repairing unit. During operation, the ship building and repairing unit shall, pursuant to relevant regulations, treat vessel pollutants and record in detail.

Article 17 (Safety and Pollution Prevention Check Form)

When conducting loading, unloading and ship-to-ship transfer of bulk liquid cargo apt to cause pollution damage, the parties to such operation shall confirm relevant safety and pollution prevention measures before such operation is commenced, fill the Safety and Pollution Prevention Check Form in accordance with rules, and fulfill various requirements during such operation.

Model format of the Safety and Pollution Prevention Check Form shall be formulated by the maritime safety agency.

Article 18 (Deployment of Oil Booms)

A vessel shall deploy oil booms if it engages in the following operations:

- (1) loading, unloading and ship-to-ship transfer of more than 300 ton persistent oils in bulk, excluding operation for supplying of vessel fuel oil;
- (2) loading, unloading and ship-to-ship transfer of bulk cargo apt to cause pollution damage, with specific gravity less than 1 (comparing to water) and solubility less than 0.1%;
- (3) other operations that might cause serious pollution to environment.

Where it is inappropriate to deploy oil booms due to limitation from natural conditions or other reasons, the vessel shall adopt other pollution prevention measures, and shall report to the maritime safety agency before commencing the operation.

Article 19 (Requirements of Prevention of Control of Pollution for Relevant Operating Units)

Any dock, loading and unloading spot, or unit engaged in building and repairing of vessels shall be installed with pollution-monitoring and pollutant-collecting facilities commensurate with the requirements for prevention and control of pollution in the waters where it locates, the types of goods loaded or unloaded, its handling capacity, and its ability to build, repair or dismantle vessels, and keep such facilities in good order and condition.

Any dock, loading and unloading spot, or unit engaged in operations of repairing, building, salvaging and dismantling vessels shall, pursuant to relevant norms and standards of the State, be installed with corresponding equipment and devices for prevention and control of pollution. Units in a same port area or operating area may establish a joint prevention mechanism to realize uniformly allocating and using of equipment for prevention and control of pollution.

Article 20 (Management on Supplying and Receiving of Oil for Vessels)

Any unit engaged in supplying and receiving of ship oils shall report to the maritime safety agency for the record. The maritime safety agency shall supervise and inspect the operations of supplying and receiving ship oils and, upon finding any incompliance with the requirements on safety and the prevention and control of pollution, stop the operations.

Fuel oil supplied by the oil supplying unit shall meet relevant standards of the State and this Municipality; provisions in relevant international treaties concluded or acceded to by China shall be complied when supplying fuel oil to vessels engaged in international voyage.

Article 21 (Requirements for Recording)

Where a vessel engages in operations of oils or bulk toxic liquid substances, it shall truthfully record the same in corresponding record book. Where such vessel, in accordance with law, need not to equip with relevant record book, it shall truthfully record the same in deck logbook or engine logbook.

The vessel shall archive onboard the record book after it is used, for examination and verification.

Article 22 (Prevention and Control of Atmospheric Pollution Caused by Operations)

Where a vessel transports, loads or unloads dust cargo or cargo that might diffuse toxic and harmful gas, it shall take sealing measures or other protective measures to prevent from causing atmospheric pollution.

When this Municipality issues hazardous air pollution warning, any vessel shall not conduct operation easy to produce dusts.

Chapter IV Emergency Handling of Vessel-caused Pollution Accidents

Article 23 (Contingency Plan)

Maritime safety agencies and administrative department of communications shall, in conjunction with other administrative departments, such as the department of environmental protection, establish emergency response mechanism for the prevention and control of environment pollution caused by vessels and their relevant operations, and formulate a contingency plan for the prevention and control of environment pollution caused by vessels and their relevant operations.

The owner, operator or manager of a vessel shall formulate contingency plan for the prevention and control of environment pollution caused by vessels and their relevant operations.

Operator of dock, loading and unloading spot, as well as ship building, repairing and dismantling operations shall formulate contingency plan for the prevention and control of environment pollution caused by vessels and their relevant operations, submit the same to the maritime safety agency for the record, organize drills regularly and maintain proper records thereof.

Article 24 (Handling of Vessel-caused Pollution Accidents)

Where a vessel causes a pollution accident in waters of Shanghai port, or causes a pollution accident in waters beyond Shanghai port that results in, or is likely to result in, pollution in waters of Shanghai port, the vessel shall activate the corresponding contingency plan immediately, conducts cleanup pollution operation or entrust ship pollution response unit to do so, and report the accident to the nearby maritime safety agency.

Where a vessel causes pollution accident during berth at the dock, the operator of such dock shall activate the corresponding contingency plan immediately, coordinate to carry out pollution cleanup operation, and report the accident to the administrative department of communications. Cost incurred thereof shall be borne by the party

liable for the accident.

Article 25 (Requirements on Prevention and Control of Pollution for Sinking Vessels)

Where a vessel is in danger of sinking in the wake of an accident, the crew shall, before abandoning the vessel, shut down the cargo compartments (containers), close the valves of pipelines of the oil compartments (tanks) and block the vents of cargo compartments (containers) and the oil compartments (tanks) as far as possible.

Where a vessel sinks, the owner, operator and manager of the sunken vessel shall make a timely report to the maritime administration agency on the properties, quantities, types and locations of the fuel, the cargo apt to cause pollution and the other pollutants onboard, and take clean-up measures promptly.

Article 26 (Emergency Handling by Maritime Safety Agency)

The maritime safety agency shall, upon receipt of the report for vessel-caused pollution accident, activate contingency plan immediately, organize and coordinate the accidental vessel, ship pollution response unit and other relevant units to take corresponding emergency handling measures.

Article 27 (Use of Oil Detergents)

Where oil detergents are to be used in handling of vessel-caused pollution accident in waters of Shanghai port, application shall be submitted to the maritime safety agency for approval before using the same.

Use of oil detergents in special protection zones is prohibited.

Article 28 (Insurance for Pollution Liability)

A vessel that shall arrange insurance or corresponding financial security for oil pollution liability shall hold corresponding certification document.

This Municipality promotes implementation of ship pollution liability insurance system, and encourages vessels navigating, berthing and operating in Shanghai port to arrange pollution liability insurance.

Chapter V Legal Liability

Article 29 (Punishment for Failure in Fulfilling Pollution Prevention Measures)

Where, a vessel commits any of the following acts in violation of the provisions of these Measures, the maritime safety agency shall order it to make corrections, and a fine of not less than 1,000 yuan but not more than 10,000 yuan shall be imposed; if the circumstances are serious, a fine of not less than 10,000 yuan but not more than 50,000 yuan shall be imposed:

- (1) in violation of Para.2 of Art.4 of these Measures, failing to input information of cargo apt to cause pollution into AIS;
- (2) in violation of Para.2 of Art.8 of these Measures, lifting the lead sealing without reporting to the maritime safety agency;
- (3) in violation of Para.1 of Art.15 of these Measures, failing to report to the maritime safety agency before commencing operations;
- (4) in violation of Para.1 of Art.17 of these Measures, the operating unit fails to fill, as required, the Safety and Pollution Prevention Check Form.

Article 30 (Punishment for Vessels Violating Pollutants Discharge Rules)

Where a vessel commits any of the following acts in violation of the provisions of these Measures, the maritime safety agency shall order it to make corrections, and fines shall be imposed:

- (1) in violation of Art.5 of these Measures, discharging domestic sewage, oily waste water or ballast water into waters where discharge of the same is prohibited, a fine of not less than 20,000 yuan but not more than 50,000 shall be imposed; if the circumstances are serious, a fine of not less than 50,000 yuan but not more than

200,000 yuan shall be imposed;

- (2) washing decks in violation of Art.9 of these Measures, a fine of not less than 20,000 yuan but not more than 50,000 yuan shall be imposed;
- (3) in violation of Para.1 of Art.11 of these Measures, using fuel oil that does not meet the standards stipulated by the State and this Municipality, a fine of not less than 10,000 yuan but not more than 100,000 yuan shall be imposed.

Article 31 (Punishment for Use of Oil Detergents in Violation)

Where, in violation of Para.2 of Art.27 of these Measures, using oil detergents in special protection zones to handle pollution accident, a fine of not less than 10,000 yuan but not more than 50,000 yuan shall be imposed.

Article 32 (Administrative Responsibility)

Where, any of the following acts is committed by maritime safety agency or their staff members in violation of these Measures, warnings or the disciplinary sanction of demerit or major demerit shall be given to the persons in charge with competent accountability and other persons with competent accountability by the unit they belong to or by higher competent authorities; if the circumstances are serious, they shall be demoted or dismisses:

- (1) fail to fulfill supervision and inspection duties in accordance with law for prevention and control of pollution caused by vessels, causing consequences;
- (2) fail to take response measures upon receipt of report for vessel-caused pollution accident, causing consequences;
- (3) enforce law without statutory basis or enforce law in violation of statutory procedure.

Chapter VI Supplementary Provisions

Article 33 (Effective Date)

These Measures shall be effective as of June 1, 2015. The Administrative Measures of

Shanghai Port on Prevention of Pollution Caused to Waters by Vessels promulgated under Order No.28 of the People's Government of the Shanghai Municipality on May 28, 1996 shall be repealed simultaneously.