

JAPAN P&I NEWS

No.782-15/11/13

To the Members

Dear Sirs,

China – Penalty for Discharging Waste and Sewage in Bohai Bay

The Association has received the attached circular from Huatai Insurance Agency & Consultant Service Ltd., our correspondents in China, on penalties for discharging garbage/sewage in Bohai Bay, China.

Members are reminded that discharge of any garbage/sewage in Bohai Bay is prohibited and thus they should refrain from doing so when in Bohai Bay so as to avoid penalty being imposed and possible delay being caused to the vessels' operation.

Yours faithfully,

The Japan Ship Owners' Mutual Protection & Indemnity Association

Attachment: Circular issued by Huatai Insurance Agency & Consultant Service Ltd



华泰保险经纪有限公司

CHINA RE

HUATAI INSURANCE AGENCY & CONSULTANT SERVICE LTD.

Circular Ref No.: PNI1509

Date: 05 Nov2015

Dear Sir or Madam,

Subject: Administrative Penalties on Vessels for Discharging Waste and Sewage in Bohai Bay, China

Background

Recently, our local offices in northern China have noted an increased number of cases concerning vessels being fined by local Maritime Safe Administration ("MSA") for discharging garbage/sewage in Bohai Bay, China. According to our information, local MSA has enhanced supervision of discharging garbage or pollutants in Bohai Bay. According to Marine Environment Protection Law of the People's Republic of China, offenders in this respect are subject to a penalty ranging from RMB20,000 to RMB200,000 depending on different extent of violation.

In most cases, when attending on board for PSC inspection, MSA officers noticed the vessel's record of discharging garbage or sewage when the vessel was in Bohai Bay which was considered to be a breach of relevant Chinese laws and regulations. MSA would then make investigation, take statement from crewmembers and issue administrative penalty notice to the vessel. At most ports security are usually provided to MSA before MSA issues formal penalty notice guaranteeing payment of the penalty in order to ensure the vessel's smooth departure. However, if the vessel's schedule was delayed by MSA for investigation without cargo operation, the vessel may also face non-production berth usage claim from the terminal.

In order to help ship owners and operators understand the situation and avoid such penalty and relevant costs, we hereby prepared this circular.

BohaiBay

Bohai Bay area, located in the northeast coast of China, is a nearly enclosed inland sea. BohaiBay faces the sea on one side connecting Yellow sea through

Bohai Straits, and is surrounded by land on the other three sides with Liaoning Province to the north, Hebei Province to the west, Tianjin and Shandong Province to the south.

The separating line between Bohai Bay and Yellow Sea is the line (marked in red in below map) from the west corner of Lao Tie Shan(approximately 38°43.663N, 121°08.082E) located in the south of Liaodong peninsula to Peng Lai Jiao (approximately 37°49.931N, 120°44.575E) located in the north of Shandong peninsula via Miaodao Archipelago.



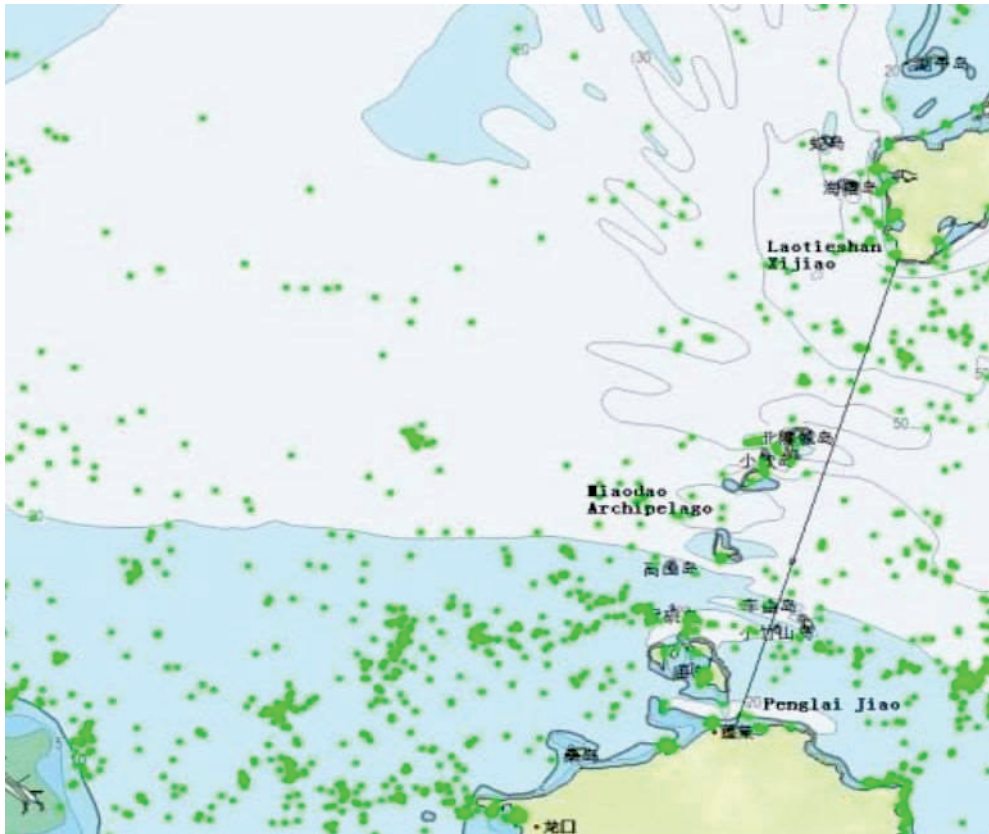
location map of Bohai-sea

According to the Declaration by the Government of People’s Republic of China on the Territorial Seas, Bohai Bay is the inland sea of China.



Boundary marker at Laotieshan

Boundary marker at Penglaijiao



Sketch map of demarcation line of the Bohai Bay

Relevant Regulations

The following laws and regulations are usually quoted as the legal ground for the administrative fines:

➤ **Annex V (Amended in 2011) of Marpol 73/78**

In accordance with Provision 1, Article 4 of Annex V of Marpol 73/78, food garbage can only be discharged at least beyond 3 nautical miles from the territorial sea baseline, and cargo residue can only be discharged at least beyond 12 nautical miles from the territorial sea baseline. When the garbage is mixed with or polluted by substances that are forbidden to be discharged or apply different discharge requirements, then stricter standard shall be applied.

As mentioned above, Bohai Bay is considered inland sea of China, thus discharge of any garbage is strictly prohibited.

➤ **Marine Environment Protection Law of the People's Republic of China**

Article 62 provides that in the sea area under the jurisdiction of P.R.C., any ship and related operations shall not violate the provisions of this law to

discharge pollutants, waste and ballast water, ship garbage and other harmful substances into the sea.

Article 73 provides that whoever, in violation of the provisions of this law, under any of the following circumstances, shall be mandated to modify within a prescribed period of time and be fined by the competent authorities to conduct marine environment supervision and administration in accordance with the provisions of this law:

(1) Discharge pollutants or other substances which is prohibited by this law into the sea; (2) fail to comply with the provisions of this Law to discharge of pollutants into the sea, or to discharge pollutants beyond the standard requirement; (3) dumpwastes into the sea without obtaining any certificate of permit for dumping; (4) no proper treatment/measures have been taken immediately in the event of an accident or any other contingent event causing pollution to the marine environment.

Whoever has one of the behaviors of the above section (1), (3), shall be fined in the range from RMB30,000 to RMB200,000; whoever has one of the behaviors of the above section (2), (4), shall be imposed a fine from RMB20,000 to RMB100,000.

➤ **Regulation on the Prevention and Control of Vessel-induced Pollution to the Marine Environment**

Article 15 provides that ships in the waters under the jurisdiction of the People's Republic of China's ocean discharge vessel garbage, sewage, oily water, sewage containing toxic and hazardous substances, emissions and other pollutants as well as ballast water, shall comply with laws, administrative regulations, international treaties People's Republic of China has concluded or acceded and the relevant standards.

Ships shall have the pollutants which do not meet the aboveregulation discharged into port reception facilities or received by the vessel pollutant receiving entity.

Article 55 of this regulation echoes the content of article 73 of Marine Environment Protection Law which specifies the penalty amount on various breaches.

Recommendation:

Vessels are recommended to strictly refrain from dumping wastes or discharge sewage in Bohai Bay so as to avoid administrative penalty from MSA and the potential delay caused thereby.

In case of trouble, members are suggested to notify our local offices immediately who will work together with the local ship agent to deal with the penalties and protect owners' interests.

Hope the above is of assistance.

Sincerely yours,

Cui Jiyu
Vice President