BOATING BRIEFS

The Maritime Law Association of the United States

Committee on Recreational Boating

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Fall/Winter 2022
VOL. 31, NO. 2

District Court rules vessel owner is entitled to limitation of liability in fueling explosion

In Re Kuhl, No. 21-CV-60408, 2022 WL 3009497 (S.D. Fla. July 29, 2022)

On December 18, 2020, Reichen Kuhl ("Kuhl") purchased a 2002 28-foot Four Winns 280 ("the vessel") from its prior owner through All Florida Yacht Sales. About nine-months earlier, the vessel had suffered an explosion in the engine compartment. The vessel's prior owner repaired the damage and continued to use the vessel for six months without incident. All Florida Yacht Sales denied being informed of the prior explosion. At the time of the purchase, Kuhl had only seen pictures and video of the vessel. Kuhl did not speak to the prior owner as to the vessel's condition, relying upon the representations of All Florida Yacht Sales. Kuhl did not commission a marine surveyor or mechanic to inspect the vessel before the purchase. The vessel was delivered to Kuhl's home while he was out of town. Kuhl first saw the vessel on January 10, 2021.

On January 17, 2021, Kuhl operated the vessel for the first time. He navigated the vessel, without incident, on a one-mile trip to the Bahia Mar Marina ("Marina") for fuel. A Marina employee fueled the vessel. After the fueling, Kuhl operated the vessel blowers for over a minute before starting the engines. The vessel ran between seven to ten seconds before the explosion in the vessel's engine space. Kuhl was thrown by the explosion suffering injuries and burns. The Marina's fuel dock and another vessel the M/Y "W" were damaged in the resulting fire.

On February 22, 2021, Kuhl initiated legal action seeking exoneration from or limitation of liability pursuant to the Limitation of Liability Act and applicable Federal Rules of Civil Procedure. The owner of the M/Y "W" ("W") filed a counterclaim for negligence against Kuhl, and a third-party complaint against the Marina for negligence and gross negligence.

After a two-day bench trial starting April 12, 2022, the Honorable Beth Bloom of the Southern District of Florida, entered a final judgment in favor of Kuhl and the Marina. Both experts had testified at trial that they were unable to identify either a fuel source or an ignition source that caused the explosion and fire. The Court in evaluating the various theories of liability focused on the fact that there was no direct evidence as to the cause of the explosion.

As to Kuhl, the Court determined that while he was not entitled to exoneration having failed to demonstrate that he or his vessel were completely free from fault, he was still entitled to limitation of liability as the "W" failed to establish negligence or unseaworthiness that caused the accident. Kuhl also established that he lacked privity or knowledge of any of the potential and speculative causes of the fire asserted by "W."

The "W" asserted multiple theories of negligence against Kuhl including failure to follow "safe fueling

This newsletter summarizes the latest cases and other legal developments affecting the recreational-boating industry. Articles, case summaries, suggestions for topics, and requests to be added to the mailing list are welcome and should be addressed to the editor.

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practices," failure to ensure the vessel was seaworthy at the time of purchase, and failure to extinguish the fire.

Even with expert testimony regarding breaches of "safe fueling practices," the Court determined that "W" failed to introduce evidence those breaches were the cause of the explosion. Additionally, the Court found that absent evidence of the cause of the explosion, it would be speculative to conclude that obtaining a marine survey, having the vessel inspected by a mechanic, speaking to the prior owner, or conducting a personal inspection of the vessel, instead of relying on the broker's representations, would have revealed an issue with the vessel.

As to Kuhl's failure to extinguish the fire, after hearing opposing expert testimony, the Court concluded from review of video of the incident that it would be unreasonable to expect Kuhl to be capable of attempting to extinguish the fire having been thrown, burned, and injured by the explosion.

The Court rejected arguments that the vessel was unseaworthy. Performing a similar analysis as to "W"'s negligence claims, the Court determined there was insufficient evidence to support a finding of unseaworthiness absent evidence as to the cause of the explosion. The Court also rejected applying an inference of negligence under *res ipsa loquitor*.

As to the Marina, the Court had earlier determined that "W"'s negligence claims were barred by the exculpatory clauses contained in the Boat Storage/Dockage License Agreement. Therefore, to prevail, "W" had to establish gross negligence on the part of the Marina. At trial, "W" failed to establish that the Marina had knowledge of the vessel's prior explosion or other similar explosions at the Marina that when disregarded would evidence a conscious disregard of consequences necessary for a finding of gross negligence. ▯

Limitation of Liability

Ninth Circuit holds the six-month limitation provision of the Shipowner's Limitation of Liability Act is not jurisdictional

Martz v. Horazdovsky, 33 F.4th 1157 (9th Cir. 2022)

In a matter of first impression, the Court of Appeals for the Ninth Circuit has held that the six-month statute of limitations provision of the Shipowner's Limitation of Liability Act, 46 U.S.C. § 30511(a), which requires a vessel's owner to bring a separate limitation-of-liability action "within 6 months after a claimant gives the owner written notice of a claim[,]" is not jurisdictional.

In reaching its holding, the Court addressed two consolidated cases, the first of which involved Reagan Martz, who on June 9, 2018, while operating his parents' boat, collided into an inflatable raft, killing Jennifer Horazdovsky. Nearly two years later on June 4, 2020, Jennifer Horazdovsky's husband filed suit against Reagan Martz and his parents, the owners of the boat.

Thereafter, the parents, William and Jane Martz, filed for limitation of liability in the District of Alaska, but the district court granted summary judgment in favor of Horazdovsky. In so doing, the district court noted that William and Jane had received a letter from Horazdovsky's attorney that "outline[d] a theory of liability that implicate[d] the vessel owners[,]" and therefore, William and Jane Martz had notice of a claim, triggering the six-month statute of limitations. Because William and Jane Martz failed to file their limitation claim within the six-month statute of limitations, their claim was untimely.

The second case involved the January 5, 2019 drowning of a 13-year-old during an open-ocean scuba-diving excursion operated by Honu Watersports LLC, which in turn was controlled by an entity owned by Matthew Zimmerman. Two days after the drowning, an attorney representing the decedent's family wrote to Mr. Zimmerman requesting preservation of evidence. On September 19, 2019, the decedent's family sued Mr. Zimmerman and his business entities in Hawaii state court, and less than two months later, one of Mr. Zimmerman's business entities petitioned for limitation of liability.

The decedent's family moved to dismiss the limitation action for lack of subject-matter jurisdiction, but the district court denied the motion on the basis that there was "no clear jurisdictional language in the text of § 35011(a)," and therefore, that rule was a claims-processing rule and not a jurisdictional rule. The district

court did, however, grant the decedent's family's motion for summary judgment on the grounds that the spoliation letter was sufficient notice of the claim, and therefore, the limitation action, which was not filed within six months of the spoliation letter, was untimely.

Although similar in effect to a motion for summary judgment, whether a claimant can attack a limitation plaintiff's claim in a motion to dismiss for lack of subject-matter jurisdiction is of significant importance, as such an attack can be raised at any time, including on appeal. Fed. R. Civ. P. 12(b)(1), (h)(3). Moreover, as the Court noted, "a district court would have a duty to consider the timeliness of such an action *sua sponte*." Guided by the Supreme Court's decision in *United States v. Wong*, 575 U.S. 402, 409 (2015), the Court explained that "Statutory time limits, in particular, are jurisdictional 'only if Congress has "clearly state[d]" as much.'" With this guiding principle in mind, the Court looked to the language of § 30511(a), noting that "[i]t does not refer to the court's jurisdiction or otherwise suggest that it limits the court's adjudicatory power." Accordingly, in the absence of clear jurisdictional language, the Ninth Circuit held that § 30511(a) is not a jurisdictional rule, and therefore, a limitation plaintiff's failure to file for limitation within the six-month limitation period is not subject to a motion to dismiss for lack of subject-matter jurisdiction.

With its ruling, the Ninth Circuit joined the Sixth and Eleventh Circuits, among others, in holding that § 30511(a) is not a jurisdictional rule. As a practical matter, and as evidenced by the Court's holding and the cases on which it was built, Practitioners will be well-advised to (1) take seriously any correspondence that could reasonably be perceived as a notice of claim; and (2) be mindful of whether the Circuit in which one practices treats § 30511(a) as a claims-processing rule that is immune to attack by a motion to dismiss. ▯

Marine Insurance

Eleventh Circuit holds that choice-of-law provision in all-risk marine insurance policy is enforceable under admiralty law

***Great Lakes Ins. SE v. Wave Cruiser LLC*, 36 F.4th 1346 (11th Cir. 2022)**

The case of *Great Lakes Insurance SE v. Wave Cruiser LLC* arises out of an insurance dispute between an insurer and its insured vessel owner. In considering a matter of first impression, the Eleventh Circuit held that a choice-of-law provision in a marine insurance policy was enforceable under federal maritime law.

Wave Cruiser LLC ("Wave Cruiser") purchased an "all risks" insurance policy from Great Lakes Insurance SE ("Great Lakes") to cover a recently acquired 2003 45' Viking. The policy excluded coverage for engine damage unless caused by an "accidental external event." The policy also included a choice-of-law provision calling for the application of "well established, entrenched principles and precedents of substantive United States Federal Admiralty law and practice but where no such well established, entrenched precedent exists," the substantive laws of New York.

As part of the purchase, the vessel was surveyed, and a 2500-hour service was performed on the engines around that same time. Despite a clean bill of health from the surveyor and a diesel technician, after 17 hours of operation, the vessel suffered a catastrophic failure of the port engine. Wave Cruiser made a claim with Great Lakes, who denied coverage based on the failure of Wave Cruiser to show that an "accidental external event" caused the port engine failure.

In arguing the existence of an "accidental external event," Wave Cruiser presented evidence showing that: (1) a marine diesel technician performed a 2500-hour inspection on the Viking's engines and found them to be in "great shape" and (2) the vessel's port engine had only been operated for seventeen hours between the time of the vessel survey and the time of the engine's failure. The district court, in granting summary judgment for Great Lakes, found Wave Cruiser's arguments did not create a genuine dispute of material fact concerning whether an external event caused the engine failure.

On appeal the Eleventh Circuit considered the issue of which party bore the burden of proving the failure was due to an accidental external event or, put differently, which party had to prove an exception to a policy exclusion. In attempting to identify the applicable standard the court noted that admiralty law was silent when it came to determining "which party has the burden to

prove that an exception to the exclusion applies." Accordingly, the Eleventh Circuit, in affirming the district court's grant of summary judgment for Great Lakes, invoked the alternatively listed New York law, which places such burden on the insured.

The Eleventh Circuit had never examined the enforceability of a choice-of-law provision under federal maritime law, but the Fifth and Third Circuits had enforced such provisions with the same language contained in Great Lakes' policy. Considering admiralty law's overarching theme of uniformity, the Eleventh Circuit "[saw] no reason to depart from [its] sister circuits" in affirming summary judgment in favor of Great Lakes.

The Eleventh Circuit found no evidence in the record of the catastrophic engine failure being caused by an "accidental external event," enforced the choice of law provision adopting New York substantive law and affirmed the district court's grant of summary judgment in favor of Great Lakes. ▯

Third Circuit extends the framework for analysis of a forum selection clause to a choice of law provision in a marine insurance policy

Great Lakes Ins. SE v. Raiders Retreat Realty Co., LLC, No. 21-1562, 2022 WL 3724098 (3d Cir. Aug. 30, 2022)

In *Great Lakes Insurance SE v. Raiders Retreat Realty Co., LLC*, the owner of a yacht sought coverage under a marine insurance policy for damages sustained when the yacht ran aground. Denying coverage for the loss, the insurer, Great Lakes, argued the policy was void from inception because the yacht owner did not timely re-certify or inspect the yacht's fire suppression system as required.

Great Lakes first filed a Complaint seeking declaratory relief in the Eastern District of Pennsylvania. The yacht owner responded with five counterclaims, including three extra-contractual claims arising under Pennsylvania law for bad faith, breach of fiduciary duty, and breach of the Pennsylvania Unfair Trade Practices Act. Concluding a choice of law provision in the insurance policy called for application of New York law, the District Court dismissed each of the owner's Pennsylvania based claims upon Great Lakes' motion for judgment on the pleadings.

An interlocutory appeal followed wherein the Court of Appeals first explained that its basis for jurisdiction arose from the district court's ruling being a determination on the merits impacting the rights and liabilities of the parties. As such, it was the equivalent of a motion for summary judgment and provided the Court with jurisdiction over the appeal.

Next, the Court turned its analysis to the choice of law provision in the policy calling for application of New York law. In doing so, the Court cited the longstanding precedent set forth in *The Bremen v. Zapata Off-Shore Co.*, 407 U.S. 1 (1972), which provided a framework for enforceability of a forum selection provision in a maritime contract. There, the Court held that a facially valid forum selection clause should be honored unless a compelling and countervailing reason rendered enforcement unreasonable. Such an example would occur in situations where enforcement would contravene a strong public policy of the forum where suit is brought.

Rejecting Great Lakes argument that *The Bremen*'s forum-selection analysis was inapplicable to a choice of law provision, the Court held to the contrary and found the framework set forth in *The Bremen* to be equally applicable to choice of law provisions and those governing selection of a forum. The Court also rejected the contention that the public policy of any state could not overcome the well-established principle that choice of law provisions in maritime contracts are presumptively valid. Instead, the Court held that choice of law provisions in maritime insurance contracts are presumed enforceable unless enforcement would be unreasonable and unjust. Accordingly, the Court remanded the case to the District Court for consideration as to whether Pennsylvania has a strong public policy (i.e., to protect its citizens from bad faith and unfair trade practices by insurance companies) that would preclude application of the policy's choice of law provision calling for New York law. ▯

Wrongful Death

Ninth Circuit finds maritime wrongful death claim accrues on the date of death of the decedent not on the date of diagnosis of a terminal illness

Deem v. William Powell Co., 33 F.4th 554 (9th Cir. 2022)

This case arises from a wrongful death claim decided on appeal in the Ninth Circuit and addresses when a wrongful death accrues under maritime law. In an apparent issue of first impression in the Ninth Circuit, the court held that that a maritime wrongful death claim accrues at the time of death rather than on the first date the decedent learns of his illness or injury that eventually causes death.

Thomas Deem, an outside machinist at the Puget Sound Naval Shipyard, repaired vessels and their components from February 7, 1974 until February 22, 1981. Deem's work included removing and installing piping insulation, gaskets, and other parts containing asbestos. Deem was diagnosed with mesothelioma on February 20, 2015 and died on July 3, 2015. His wife, Sherri Deem, filed suit against the entities that manufactured, sold, and distributed asbestos containing products that Deem could have been exposed to during his employment at the shipyard. Significantly, suit was filed within three years of Deem's death.

The defendants moved to dismiss the complaint, arguing that maritime law's codified three-year statute of limitations for wrongful death claims rendered her suit time barred. The district court applying the "discovery rule" granted summary judgment and dismissed the suit. On appeal, the Ninth Circuit reversed and held that a wrongful death claim cannot arise or accrue before death even if the cause of death is known or anticipated.

The Ninth Circuit noted that maritime law follows the discovery rule as it relates to claim accrual generally, but there was less clarity in the law as it relates to maritime wrongful death claims post *Moragne v. States Marine Lines, Inc.*, 398 U.S. 375 (1970).

Relying on authority from the Supreme Court as well as numerous other circuit courts, the Ninth Circuit held that the district court erred in applying the discovery rule by concluding that the Deem's wife had to discover only his illness to trigger the statute of limitations. As the court noted, the loss of her husband could not have been discovered prior to his passing.

The Ninth Circuit reasoned that *Moragne* distinguished between death claims and personal injury claims in that an injury claim arises from damage to the individual themselves whereas a death claim arises from damage to the decedent's family. The injury to Sherri Deem was the loss of her husband's presence as a result of death, and that injury could not have been discovered before he passed away. Therefore, Sherri Deem's claim was timely under 46 U.S.C. § 30106's three-year statute of limitations.

The Ninth Circuit joins the Third, Fifth, Sixth, and Seventh Circuits in holding that federal law determines when a wrongful death claim accrues and that a wrongful death claim does not accrue before the time of death under maritime law. ▯

Jurisdiction

Sixth Circuit declines to extend maritime jurisdiction where the subject vessel was not in navigation

Jarvis v. Hines Furlong Line, Inc., No. 21-5937, 2022 WL 1929364 (6th Cir. June 6, 2022).

Joseph Jarvis, an employee of Hines Furlong, was working at the National Maintenance shipyard in Paducah, Kentucky on the vessel WARREN HINES, which was owned by his employer. While working at the shipyard, Jarvis injured his back and, alleging that he was a seaman, asserted personal injury claims against his employer under the Jones Act and general maritime law. The court considered Jarvis' claims in two distinct ways: 1) was Jarvis a seaman; and 2) was the WARREN HINES a vessel in navigation.

When asked what duties Jarvis performed while at the shipyard, the court was told that he had been sent there at the direction of his employer to assist in the "complete refurbishment" of the WARREN HINES, which "underwent many repairs" from September 2017 to June 2019 – these duties included demolition work, painting, plumbing, pulling wires, and chipping.

The court applied a two-part test to determine Jarvis' status as a seaman: 1) an employee's duties must contribute to the function of the vessel or to the accomplishment of the mission; and 2) a seaman must have a connection to a vessel in navigation (or to an identifiable group of such vessels) that is substantial in terms of both its duration and nature.

The 6th Circuit noted that while Jarvis did bring reasoned arguments about his duties as an employee, the Court decided the case based on the WARREN HINES' status or ability to be considered a vessel in navigation.

The WARREN HINES had extensive hull work with "a lot of the hull being replaced", the interior was refinished, the fuel tanks were emptied and cleaned, the bow was reworked, and a hole in the starboard fore compartment was repaired. There was no "fuel, oil, lube, or anything of that nature" in the ship. The ship was in dry dock twice: once to remove "all the drive gear, propellers, shafts, [and] rudders", and again several months later to reinstall everything that had been removed. The court heard that the ship was actually unable to float, such was the nature of the repairs.

Jarvis argued that the ship was in the water at points during the repair, thus meeting the requirement that it was a vessel in navigation. The court determined that a vessel in navigation must be practically, not theoretically, used or capable of being used for maritime transportation. Since the ship was in for repairs, this would be determined by the extent of repairs, noting that at some point repairs become so significant that the vessel can no longer be considered in navigation. The court also noted that while some repairs happen at anchor, berth, or dockside, and these vessels remain in navigation, major overhauls and renovations lead ships to be taken out of navigation.

The court noted that the Nineth Circuit and the Fifth Circuit had addressed the issue of what constitutes a major overhaul. In the two cases cited, the courts focused on the length of time the ship was being repaired, and whether or not the ship's crew was aboard.

Ultimately, the court determined that the vessel was not in navigation due to 1) the length of time it took to make the repairs, 2) the crew was not aboard the ship, and 3) the extensive nature of the repairs. Because the ship was not in navigation, Jarvis could not be considered a seaman under the Jones Act as a matter of law.

Court of Chancery of Delaware settles longstanding yacht ownership dispute

***Saltiel v. Alize Yachting Corp.*, C.A. No. 2020-0002-SEM, 2022 WL 2301098 (Del. Ch. June 27, 2022), report and recommendation approved, (Del. Ch. 2022).**

In an opinion that highlights the potential woes of yacht ownership, the Chancery Court of Delaware, when faced with the propriety of exercising jurisdiction over a yacht registered in Delaware, located in Turkey, and subject to claims in the Turkish courts, sided with the yacht owner and held that only the courts of Delaware were capable of rendering prompt and complete justice.

Moiz Mose Saltiel and his company, MS Maritime Ltd. ("MS Maritime"), purchased a yacht located in Turkey from Alize Yachting Corp. ("Alize"). Thereafter, MS Maritime registered the yacht with the Delaware Department of Natural Resources and Environmental Control ("DNREC") and with Çeşme Harbor in Turkey, where the Yacht was located at the time of the sale. Not long after the purchase, however, Alize filed a complaint against MS Maritime which resulted in the Turkish court seizing the yacht. When the DNREC learned of the Turkish court's seizure, it initially refused to renew the yacht's Delaware registration, but it later reversed course and renewed the yacht's Delaware registration for another year.

The dispute in Turkey seemingly ended in August of 2017, after which MS Maritime took possession of the yacht, but the dispute between MS Maritime and Alize roared back to life when, in response to perceived orders from the Turkish court, the DNREC canceled MS Maritime's registration and registered the yacht under Alize. In response to the DNREC's actions, Alize sought once more to seize the yacht in Turkey and initiated another challenge as to MS Maritime's ownership of the yacht in that forum.

While the dispute as to ownership of the yacht was still pending in Turkey, MS Maritime and Moiz Mose Saltiel filed an action in Delaware to quiet title and reform the bill of sale. Initially, Alize appeared and filed an answer to the petition, but its counsel withdrew from the matter due to a payment dispute. Thereafter, Alize refused to obtain new counsel, which caused the Chancery Court of Delaware to find Alize in default. Despite this finding, the Court questioned whether it was appropriate for it to exercise jurisdiction in light of the currently pending litigation in Turkey. MS Maritime

and Mr. Saltiel provided briefing on that issue and attached thereto evidence of payment and an affidavit of Turkish counsel explaining that the Turkish court had repeatedly declined to exercise jurisdiction over the case.

The Chancery Court of Delaware held that the ongoing litigation in Turkey did not warrant a stay of the Delaware litigation. In examining whether a stay was appropriate under the doctrine of *forum non conveniens*, the Court looked to *McWane Cast Iron Pipe Corp. v. McDowell-Wellman Eng'g Co.*, 263 A.2d 281, 283 (Del. 1970), which held that a court may "decline jurisdiction where 'considerations of convenience, expense, and the interests of justice' show that the plaintiff's chosen forum would be 'unduly inconvenient, expensive, and otherwise inappropriate.'" Moreover, where related litigation was first filed in another forum, strong preference would be given to the prior forum where the prior forum was "capable of doing prompt and complete justice . . . involving the same parties and the same issues[.]" Applying *McWane* to the facts at hand, the Court found that, although the Turkish Court had concurrent jurisdiction over the yacht by virtue of the yacht's presence in Turkey, the Turkish court was incapable of rendering prompt and complete justice. The Court reasoned that only a Delaware court could provide the requested relief—allowing registration of the yacht in Delaware under 7 Del. C. § 3100-3.21—and therefore, the Turkish court had no way of providing "complete justice." Additionally, the Court noted the Turkish courts' inability to promptly address Alize's claims, as although Alize's action had been pending in Turkey for nearly five years, the Turkish courts had not moved beyond the stage of determining jurisdiction. Because the Turkish courts were incapable of providing prompt, complete justice, the Court reformed the bill of sale to conform with 7 Del. C. § 3100-3.21 and directed the DNREC to register the yacht in MS Maritime's name. ▯

U.S. Coast Guard Updates

USCG issues Safe Loading, Safe Powering and Flotation Compliance Guidance for Electrically Powered Recreational Vessels Policy Letter, 87 FR 49599, FR Document Number: 2022-17288

On August 10, 2022, the USCG issued a policy letter addressing the safe loading, safe powering, and flotation compliance guidance for electrically powered recreational vessels less than 20 feet in length that use batteries as their primary propulsion. The document provides consistent guidance for the design, inspection, and/or testing of such vessels. The policy addresses changes in language relating to horsepower capacity and methods for calculating vessel weight to include the batteries as machinery weight. "The policy acknowledges that the regulations for small recreational vessels were all drafted with an understanding that the vessel would be powered by an internal combustion engine; however, advances in lithium battery technology may change the technology available to power these types of vessels." The policy provides "consistent guidance for the design, inspection, and/or testing of recreational vessels using batteries to power their primary propulsion." Public comments for the policy can be submitted online until November 9, 2022. ▯

USCG removes incorrect language regarding field preemption of state or local regulations addressing inland navigation, 87 FR 54385, Docket No. USCG-2022-0071

Effective September 6, 2022, the USCG is implementing an interim rule to clarify the application of 33 CFR 83.01 regarding the preemptive effect of federal inland navigation regulations on state or local regulations. In 2014, 33 CFR 83.01 was amended in relation to the application of the inland navigation rules. The amendment, as currently worded, can be interpreted as applying total field preemption to inland navigation rather than the typical conflict preemption allowing both state and federal regulations to co-exist absent any conflict. In 2019, a boater forwarded an argument that the preemption statement contained in 33 CFR 83.01 meant that any state or local regulations were preempted and unenforceable. Industry also previously requested further clarification on the regulation. The USCG revisited the language and has determined the 2014 statement of field preemption is incorrect and undermines a state's ability to enhance navigational safety. This rule removes the final sentence of 33 CFR 83.01(a) which states that 33 CFR parts 83 through 90 have preemptive effect over state and local regulation in the same field. ▯

USCG reverts definition of major marine casualty to $500,000 property damage threshold, 87 FR 35899, Docket No. USCG-2021-0348

On January 21, 2022, the USCG published a technical amendment to 46 CFR 4.40-5(d)(3) that altered the property damage threshold for a "major marine casualty" from $500,000 to $2,000,000. Significantly, this property damage threshold impacts when the NTSB may investigate a marine causality. The technical amendment was contrary to the applicable implementing legislation requiring the rule be jointly prescribed by the NTSB and USCG. As such, the USCG is restoring the property damage threshold to $500,000 effective June 14, 2022, and both the USCG and NTSB will continue to operate applying the $500,000 threshold. □

USCG publishes 2021 recreational boating accident statistics

In June 2022, the USCG published its 2021 recreational boating accident statistics which showed a decrease in accidents of 16% and of fatalities around 14% compared to 2020. Alcohol was a leading contributing factor in 16% of all fatalities. In 2021, there were 5.5 deaths per 100,000 registered recreational vessels, which was down from 6.5 deaths in 2020.

The USCG reported that the top five contributing factors to accidents included: "operator inattention, operator inexperience, improper lookout, machinery failure and excessive speed."

The 2021 Recreational Boating Statistics report is available at: https://www.uscgboating.org/statistics/accident_statistics.php □

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