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Sayı

Our Reference :1633

Konu

Subject :Amerika Deniz Ticaret Odası Mart 2016 Raporu Hk.

Sirküler No: 311 / 2016

Sayın Üyemiz,

İlgi: Uluslararası Deniz Ticaret Odası'ndan (ICS) alınan 08.04.2016 tarih ve ICS(16)16 sayılı yazı ve Eki.

İlgi yazıda, ICS Üyeleri, Amerika Deniz Ticaret Odası'ndan (Chamber of Shipping of America - CSA) alınan, yazı Ekindeki raporu dikkate almaya davet edilmektedir. Amerika Deniz Ticaret Odası'nın en son aylık raporu özetle aşağıdaki hususları içermektedir:

1. ABD Sahil Güvenlik Komutanlığı (USCG), isteğe bağlı gemi akaryakıt numune alma programının 29 Şubat 2016 tarihinde başladığını duyuran 03-16 sayılı Deniz Güvenliği Bilgilendirme Bülteni'ni (MSIB) 17 Şubat 2016 tarihinde yayımlamıştır. USCG, söz konusu programın uygulanmasının deniz yakıtlarındaki mevcut % 0.1 kükürt üst limitine sağlanan uyum düzeyini belirlemede kendilerine yardımcı olacağını ifade etmektedir. **03-16 sayılı Deniz Güvenliği Bilgilendirme Bülteni'ne üç önemli husus ilave edilmiştir.** Buna göre:
 - Numune alma tamamen isteğe bağlıdır. Örneğin Kaptan bir numune vermeyi kabul edebilir ya da reddedebilir.
 - Numune veren gemiler, isteğe bağlı olarak temin ettikleri bu numunelerin daha sonra uygunsuz bulunması durumunda herhangi bir yaptırımla karşılaşmayacaktır.
 - Numuneler, geminin mürettebatı tarafından alınacak ve USCG numune alma sürecini gözlemleyecektir.

Bahse konu Deniz Güvenliği Bilgilendirme Bülteni her ne kadar denizcilik endüstrisine fayda sağlıyor gibi görünse de, CSA'nın USCG'yle sürdürmekte olduğu görüşmelere rağmen hala cevaplanmayan bir dizi soru bulunmaktadır. Bahse konu sorular / görüşler aşağıdaki gibidir:

- Eğer bir gemi MARPOL Ek VI ve ABD gerekliliklerine uyum sağlıyorsa, gemide geçerli bir yakıt teslim bildirimini (Bunker Delivery Note - BDN) ve uyumluluğu gösteren bir yükleme sonrası test analizi bulunuyorsa, uyumsuz bir bulguyla sonuçlanabilecek bir numuneyi gemi neden gönüllü olarak versin?
- Bir geminin MARPOL Ek VI ve ABD gerekliliklerine uyum sağlaması, geçerli bir yakıt teslim bildirimini bulundurması, fakat uygun olmayan yakıtı bildiren bir yükleme sonrası test analizi alması durumunda; gemi, yakıt alımının detaylarını, yükleme sonrası test analizinin bir kopyasını ve yakıt tedarikçisiyle doldurulan protesto ihbarının bir kopyasını kapsayan bilgileri ABD Çevre Koruma Dairesi'ne (Environmental Protection Agency – EPA) teslim etmelidir.
- Eğer bir gemi ABD'ye girişten önce ECA'yla uyumlu yakıt tedarik edemiyorsa, neden uygun yakıtı bulamadığına ilişkin gerekli bilgileri içeren yakıt mevcut olmama (FONAR) bildirimini doldurmalıdır.
- Mevcut EPA protokolü göz önünde bulundurulduğunda, gemiler analiz edildiğinde EPA'ya daha önceden bildirmiş oldukları uygunsuzluğu teyit edecek olan bir numuneyi neden teslim etmek istesinler?
- MSIB'de bir gemi kendi isteğiyle bir numune verdiğinde USCG tarafından hiçbir yaptırım olmayacağına işaret edilirken, MSIB'nin yayımlanmasından sonra USCG ile yapılan görüşmeler, uygunsuzlukla ilgili gerçeklere bakılmaksızın, geminin ABD sularından ayrılmadan önce tutulabileceğini ve uyumlu yakıtı almaya zorlanabileceğini ortaya koymaktadır.



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- USCG, bir numune analizinin uyumsuzluğa işaret ettiği durumda, bunun USCG Güvenlik ve Hukuki Yaptırım için Deniz Bilgisi (Marine Information for Safety and Law Enforcement – MISLE) veri tabanında geminin bir sonraki ziyaretinde daha titiz bir liman devleti kontrolüyle sonuçlanabilecek bir uygunsuzluk olarak kaydedileceği sinyali vermektedir.

Amerika Deniz Ticaret Odası, armatörlere herhangi bir fayda sağlanması durumunda dahi, yukarıda bahsedilen sorular/meseleler çözülene kadar, kapsamlı bir gözden geçirme olmaksızın isteğe bağlı numune verme programına katılmayı tavsiye etmemektedir.

2. USCG'nin Atlantik Kıyısı Liman Giriş Rotası Çalışmasının (ACPARS) son raporunun CSA tarafından yapılmış bir özeti ekte yer almaktadır.
3. 1 Temmuz 2016 tarihinde yürürlüğe gireceği söylenen Kaliforniya Eyaleti Toprakları Komisyonu (California State Lands Commission – CSLC) biyolojik kirlenme mevzuatının hükümlerine ilişkin bir özet CSA Şubat Ayı Raporunda sunulmuştur. CSLC şimdi ise, söz konusu mevzuatı CSLC idari prosedür gerekliliklerini ihlal etmesi sebebiyle geri çekmiştir. Sonuç olarak, **biyolojik kirlenme mevzuatı 1 Temmuz 2016 tarihinde yürürlüğe girmeyecektir.** Mevzuatın geri çekilişi bildirisinde, anılan mevzuat için görüş bildirimi sürecinin Mayıs 2016'da yeniden açılacağı belirtilmektedir.
4. CSA, USCG Mevzuatının ABD Bayraklı Gemiler Üzerindeki Etkisi hakkındaki bir İncelemeyi analiz etmiştir. Söz konusu İnceleme, 2014 Deniz Taşımacılığı Yasası'nda ana hatlarıyla belirtilen gerekliliğe uygun şekilde Bilim, Teknik ve Tıp Ulusal Akademi Taşımacılık Araştırma Kurulu tarafından yürütülmektedir. İncelemenin bir özeti CSA Mart ayı raporunda yer almaktadır.

Bilgilerinizi arz ve rica ederiz.

Saygılarımızla,


Murat TUNCER
Genel Sekreter

EKLER:

Ek-1: İlgili yazı ve Eki

DAĞITIM:

Gereği:

- Tüm Üyelerimiz (Web Sayfasında)
- Türk Armatörler Birliği
- S/S Gemi Armatörleri Motorlu Taş. Koop.
- Vapur Donatanları ve Acenteleri Derneği
- 22,24,25,27,28,29 No.'lu Meslek Komite Bşk.
- İMEAK DTO Şubeleri
- Türk Loydu Vakfı
- GİSBİR
- Türk Uzakyol Gemi Kaptanları Derneği
- GEMİMO
- WISTA Türkiye Derneği
- Gemi Sahibi Firmalar

Bilgi:

- Ulaştırma, Denizcilik ve Haberleşme Bakanlığı
Deniz ve İşçular Düzenleme Genel Müdürlüğü
- Sn. Sefer KALKAVAN
TOBB DTO'ları Konsey Başkanı
- Meclis Başkanlık Divanı
- Yönetim Kurulu Başkanı ve Üyeleri
- Sn. Erol YÜCEL
TOBB Türkiye Denizcilik Meclisi Bşk.
- İMEAK DTO Meclis İhtisas Çevre Komisyonu

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8 April 2016

ICS(16)16

TO: ALL FULL AND ASSOCIATE MEMBERS

**Copy: Shipping Policy Committee
Marine Committee
Radio & Nautical Sub-Committee
Environment Sub-Committee**

US DEVELOPMENTS - MARCH 2016

Action required: To note the attached report from the Chamber of Shipping of America (CSA).

Attached at **Annex A**, please find the monthly report from CSA for March 2016.

The report contains *inter alia*:

1. News that on 17 February the USCG published MSIB 03-16 announcing the commencement of a Voluntary Vessel Fuel Oil Sampling Program commencing from 29 February 2016. The program is intended to help monitor the level of compliance with the current 0.1% sulphur in fuel cap within the North American ECA.
2. A CSA summary of the final USCG Atlantic Coast Port Access Route Study. A link to the final Study is also provided.
3. News that the California State Lands Commission (CSLC) has now withdrawn its final biofouling regulations. The CSLC regulations will no longer enter into force on 1 July 2016.
4. A CSA analysis of a Study on the Impact of USCG Regulations on United States Flag Ships. The Study has been carried out by the Transportation Research Board of the National Academy of Sciences, Engineering and Medicine, in line with the requirement outlined in the Maritime Transportation Act of 2014.

Joe Francombe
Senior Adviser



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CSA MONTHLY REPORT FOR ICS

MARCH 2016

NOTE TO THE READER: Reference to the Federal Register may be found at <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>. Please note new address and format for Federal Register retrieval due to upgrade in US government website.

References to legislation may be found at <http://thomas.loc.gov/> by entering the bill number (HR 802, S 2841) in the "search bill text" block found at the center of the page.

USCG MSIB 03-16 – Voluntary Vessel Fuel Oil Sampling Program

On February 17, 2016, the US Coast Guard (USCG) published the above referenced MSIB which announces the commencement of a voluntary vessel fuel oil sampling program on February 29, 2016. The USCG notes that implementation of this program will assist them in determining the level of compliance with the current 0.1% cap on sulfur levels in marine fuels. Three important provisions are included in this MSIB including noting that:

1. Sampling is completely voluntary e.g. the Master may either agree or decline to provide a sample.
2. Vessels providing samples will not receive sanctions if the voluntary samples are later found to be non-compliant.
3. Samples will be taken by the ship's crew with USCG observing the sampling procedure.

While on its face, the MSIB may be seen to offer a "benefit" to the industry, a number of questions have arisen which are still unanswered in spite of our ongoing discussions with the USCG. These questions/comments are as follows:

- If a vessel has complied with MARPOL VI and US requirements, has a valid bunker delivery note (BDN) on board and possibly a post load testing analysis indicating compliance, why would it want to volunteer a sample which could result in a finding of non-compliance given the fuel oil testing protocol variances?
- If a vessel has complied with MARPOL VI and US requirements, has a valid bunker delivery note (BDN) but has received a post load testing analysis indicating non-compliant fuel, it should report same to the US EPA including the specifics of the bunker purchase (date of load,



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location of load, bunker supplier information) as well as a copy of the BOD, a copy of the post load test analysis and a copy of the notice of protest filed with the bunker supplier.

- If a vessel was unable to procure ECA compliant fuel prior to entry into the US, the vessel should file a fuel oil notice of non-availability (FONAR) including the required information as to why the vessel was unable to procure compliant fuel.
- Given the existing EPA protocol noted in the second and third bullets above, again the question must be asked as to why the vessel would provide a voluntary sample that, when analyzed, would confirm the non-compliance as already reported to EPA?
- While the MSIB notes that no sanctions will be imposed by USCG where a vessel has provided a voluntary sample, discussions with the USCG after the issuance of this MSIB has suggested the vessel may be detained and forced to purchase compliant fuel prior to departure from US waters, regardless of the facts surrounding the non-compliance.
- The USCG has further indicated that where a sample analysis indicates non-compliance, this event will be recorded in the USCG Marine Information for Safety and Law Enforcement (MISLE) database as a non-compliance which is likely to result in increased port state control attention on its next visit.

Until such time as these questions/issues can be resolved and what, if any, benefits would accrue to the vessel owner, CSA does not recommend participating in this voluntary sampling program without a thorough review by counsel.

A copy of the MSIB is available for download at <http://mariners.coastguard.dodlive.mil/2016/02/17/2172016-voluntary-vessel-fuel-oil-sampling-program/>

US Coast Guard Atlantic Coast Port Access Route Study (ACPARS) Final Report

The report recommends the Coast Guard incorporate the Planning Guidelines, which include the navigation safety corridor and TSS separations, be adopted as policy into appropriate documents such as; Commandant Instructions, manuals, NVIC's and policy letters and the scope be expanded to any structures in the offshore environment. The report also recommends that



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USCG commence work through IMO for regulatory routing along the Atlantic coast.

Summary:

The long anticipated ACPARS final report was released. The purpose of this study was to address potential navigational safety risks associated with the development of wind farms and other offshore energy installations to support future marine spatial planning efforts with three objectives:

- 1) Determine whether the Coast Guard should initiate actions to modify or create safety fairways, Traffic Separation Schemes (TSSs) or other routing measures
- 2) Provide data, tools and/or methodology to assist in future determinations of waterways suitability for proposed projects
- 3) Develop, in the near term, Automatic Identification System (AIS) products and provide other support as necessary to assist Districts with all emerging coastal and offshore energy projects

The scope was from Maine to Florida focusing seaward of the sea buoys or port approaches.

Planning Guidelines:

The study was unable to meet objective one because the modeling and analysis required to make these determinations were beyond the capability of the working group.

Similarly, the study was unable to meet objective two when the contractor failed to produce a "model capable of accurately predicting changes in vessel routes and determining the resultant change in the risk to navigation safety." Therefore, the working group developed Planning Guidelines (Enclosure 2 of the report) and applied those guidelines to recommend areas that should be given priority consideration for safe navigation by offshore developers and marine planners. The Planning Guidelines consider sea space necessary for ships to maneuver safely, and discuss other factors to be considered when determining appropriate separation distances for the siting of offshore structures near shipping routes and other multiple use areas.

In particular, the Guidelines recommend the following minimum distances between a TSS or TSS entry/exit and a development area:

- 2NM from the parallel outer or seaward boundary of a traffic lane. (Assumes 300- 400m vessels)
- 5NM from the entry/exit (terminations) of a TSS

You may recall when CSA was involved in the proposed New York Wind Energy Farm the initial proposal included a 1NM buffer zone between the TSS and proposed wind farm. CSA submitted comments and worked together with USCG through various means to show that 1NM was not a sufficient buffer zone.



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The Planning Guidelines also recommend a navigation safety corridor with a coastwise sea lane along the Atlantic Coast 5 NM wide and the total navigation safety corridor width, accounting for separation distances from hazards or obstructions 9 NM wide. The corridor must be located an adequate distance from shore so that water depth is appropriate for the range of towing vessel operations expected. The report recommends that USCG commence work through IMO for regulatory routing to this effect.

The USCG is accepting comments on the final report with an April 13, 2016 deadline. Please submit any comments to me by Monday, April 11, 2016. We will compile them and formally submit to the docket by the deadline.

Link to the [USCG ACPARS Final Report](#)

California State Lands Commission (CSLC) Withdrawal of Biofouling Regulations

In an earlier update, CSA provided a summary of requirements for the final CSLC biofouling regulations which were to enter into force on 1 July 2016. CSLC has now withdrawn these final biofouling regulations. To the best of our knowledge, the withdrawal was a result of violation of their own administrative procedures requirements with regards to new regulations. As a result of this withdrawal, the regulations will NOT go into effect on 1 July 2016. In their withdrawal notice, they indicate that they will reopen the comment period for these regulations in May 2016. While not confirmed, we expect the reasons for the withdrawal involved the fact that the compliance assessment protocols had not yet been finalized at the time the regulation was finalized and thus this element is likely to be addressed in new proposed regulation. A copy of the CSLC notice of withdrawal may be viewed at http://www.slc.ca.gov/Laws-Regs/Article4.8/4_8_Withdrawal_letter_Final23Mar16.pdf

Transportation Research Board of the National Academy of Sciences, Engineering, and Medicine Final Report on Impact of United States Coast Guard Regulations on United States Flag Ships

Summary: Congress directed USCG in the Maritime Transportation Act of 2014 to engage the National Academy of Sciences to conduct an assessment of the impact of USCG regulations on U.S. Flagged ships and how these regulations affect their ability to compete in international transportation markets. This includes a review of differences in law and regulations U.S. Flagged vessels must comply with versus standards set by IMO for the international community.

This TRB committee's report discusses the cost factors that affect the competitiveness of U.S. flag ships, including the cost of complying with USCG



regulations. The committee found that costs related to USCG regulatory compliance are relatively small compared to the increased operational costs associated with crewing, insurance, shipyards. They concluded that USCG regulatory compliance is not a major impediment to the competitiveness of the U.S. flag registry. That being said, the committee found opportunities to further reduce costs through improvements in the USCG regulatory process. The following recommendations were put forth by the committee noting that many involve the USCG transferring further responsibilities to approved classification societies (ACS). Recommendations 7 and 9 are also intriguing but less tangible and probable.

1. Maritime Security Program (MSP) vessels from operating companies with proven safety records in MSP be allowed to enroll in MSP Select when reflagging, allowing them to be reviewed by a classification society, similar to the ACP procedures.
2. Regarding replacement equipment for MSP vessels, flexibility in selecting ACS type approved equipment better suited to existing vessel arrangements, should be considered.
3. MSP vessels with a documented history of safe operation and experience using periodically unmanned machinery space (PUMS) when reflagging should be permitted to continue such operations after about 1,000 hours of operation. If the crew has prior experience operating similar ships with similar control and alarm systems, consideration should be given to eliminating the waiting period.
4. USCG perform a risk-based assessment of the costs and benefits of each regulation in the CFR that exceeds international requirements, eliminating those regulations that cannot be justified on a cost-benefit basis working with ACS and industry.
5. USCG accept type approval through ACS in lieu of USCG-specific approval.
6. ACS to execute plan review and vessel inspection on behalf of USCG shifting USCG focus to a monitoring and oversight role of ACS for these functions.
7. Streamline the process for exemptions, interpretations, and appeals for US Flag ships.
8. USCG to continue presence at IMO striving to raise the bar of the international community and partner with ACS and industry experts at IMO.
9. USCG to focus on performance based regulations rather than prescriptive and engage heavily with the stakeholders regarding regulations.

The committee also briefly addressed the impact of Non-USCG regulations that have an impact on U.S. Flag competitiveness. These included;

1. EPA's Vessel General Permit for ballast water management
2. High cost for ship repairs in U.S. shipyards and the 50% Ad Valorem duty imposed on U.S. Flag ships if repairs are performed outside the U.S. It was noted by U.S. operators the cost is often lower to use foreign shipyards and pay the Ad Valorem duty than pay the cost for repairs in a U.S. shipyard.



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3. P&I Insurance high premiums due to the ability of U.S. mariners to file lawsuits against operators for personal injuries under the Jones Act. These lawsuits have increased in number and amounts awarded leading to high premiums.