



İstanbul :

Sayı
Our Reference: 1153

16.03.2015

Konu
Subject :**Amerika Deniz Ticaret Odası Ocak ve Şubat 2015 Raporları Hk.**

Sirküler No: 208/ 2015

Sayın Üyemiz,

İlgi: Uluslararası Deniz Ticaret Odası'ndan (ICS) alınan 04.03.2015 tarih ve ICS(15)14 sayılı yazı ve Eki.

İlgi yazıda, ICS Üyeleri, Amerika Deniz Ticaret Odası'ndan (Chamber of Shipping of America - CSA) alınan, yazı Ekindeki raporları dikkate almaya davet edilmektedirler.

Amerika Deniz Ticaret Odası'nın Ocak ve Şubat aylarına ait raporları ekte sunulmaktadır. Ocak ayı raporu aşağıdaki hususları içermektedir:

- Amerika Birleşik Devletleri Sahil Güvenlik Komutanlığı (United States Coast Guard – USCG), gemiadamlarının denizcilik tesislerine erişimi hususunu ele alan taslak bir kural yayınlamıştır.
- USCG, denizcilikte siber güvenlik standartları hakkındaki kılavuzun hangi öğelerden oluşturulması gerektiğine dair kamuya açık bir toplantıyı 2015 yılı Ocak ayının ortasında düzenlemiştir.
- ABD Çevre Koruma Dairesi'nin (Environmental Protection Agency – EPA) eNOI sistemini kullanan gemi genel izni (vessel general permit – VGP) yıllık raporlarının bildirilmesi konusundaki web tabanlı bir seminer süresince gerçekleşen tartışmalar Ocak ayı raporunda yer almaktadır.
- Yakıt standardında düşük kükürt kullanımına ilişkin kuralın ihlal edilmesi durumuna karşı EPA'nın 15 Ocak 2015 tarihinde ilan edilen ceza politikasının detayları yer almaktadır.
- Ulusal Okyanus ve Atmosfer Yönetimi'nin (National Oceanic and Atmospheric Administration - NOAA) öldürücü olmayan caydırıcılık araçlarının kullanımı hakkında kurallar yayınlama niyetine dair bir bildirisine cevaben CSA tarafından oluşturulan görüşlerin bir özeti CSA Ocak ayı raporunda yer almaktadır.

Şubat ayı raporu ise aşağıdaki hususları içermektedir:

- Birbirini tamamlayan iki yasa, ABD Senatosu ve Temsilciler Meclisi'ne sunulmuştur. Bu yasaların geçmesi durumunda ABD sularındaki gemilerin normal faaliyetlerine ait boşaltımlarını düzenlemek amacıyla tek bir Federal program oluşturulacaktır. (Söz konusu boşaltımlar halihazırda USCG ve EPA gereğince düzenlenmektedir.)
- Balast suyu arıtma sistemleri için USCG Tip Onayı uygulamalarının durumu ve ultraviyole test protokollerinin gelişmesi hakkında güncel bilgiler yer almaktadır. CSA, USCG'in ya da bağımsız laboratuvarların daha fazla bilgi veremeyecek olmalarına rağmen, en azından 9 sistemin test edilmek üzere sırada beklediğini belirtmektedir.
- Gemiadamlarının denizcilik tesislerine erişimine dair taslak kural hakkında CSA bir değerlendirme yapmıştır. CSA'nın görüşleri gemiadamlarının denizcilik tesislerine zamanında ve masrafsız şekilde erişimini desteklemektedir.



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- USCG'nin denizcilikte siber saldırı standartları kılavuzunun temelini oluşturması gereken öğelerle ilgili ilk kamuya açık toplantısını takiben, CSA tüzel kişiler için uygun kılavuz geliştirmek üzere USCG ile birlikte çalışmaktadır. CSA tarafından bahse konu işbirliğinin bir parçası olarak teslim edilen görüşler Şubat ayı raporunda yer almaktadır.

Bilgilerinizi arz ve rica ederiz.

Saygılarımızla,

Murat TUNCER
Genel Sekreter

EKLER:

Ek-1: İlgili yazı ve Eki'nde yer alan CSA Ocak ve Şubat Ayı Raporları.

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 Bkş.
- İMEAK DTO Şubeleri
- Türk Uzakyol Gemi Kaptanları Derneği
- Gemi Sahibi Firmalar

Bilgi:

- Ulaştırma, Denizcilik ve Haberleşme Bakanlığı
Deniz ve İçsular Düzenleme Genel Müdürlüğü
- Sn. Sefer KALKAVAN
TOBB DTO'ları Konsey Başkanı
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- Sn. Erol YÜCEL
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4 March 2015

ICS(15)14

TO: ALL FULL AND ASSOCIATE MEMBERS

**Copy: Shipping Policy Committee
Marine Committee
Labour Affairs Committee
Environment Sub-Committee
Construction & Equipment Sub-Committee**

US DEVELOPMENTS - JANUARY AND FEBRUARY 2015

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

Attached at Annex A and B respectively, please find the monthly reports from CSA for January and February 2015.

The January report contains:

- ✓ 1. Notification that the United States Coast Guard (USCG) has published a proposed rule addressing seafarers' access to maritime facilities.
- ✓ 2. Notice that the USCG held a public meeting in mid-January on what elements should form the basis of guidance on maritime cybersecurity standards. Following the meeting, the USCG is seeking further public input on this issue.
- ✓ 3. A summary of discussions that took place during an EPA webinar on the submission of vessel general permit (VGP) annual reports using EPA's eNOI system.
- ✓ 4. Details of the EPA penalty policy for violations of the low sulphur in fuel standard, which was announced on 15 January 2015.
- 5. A summary of comments filed by CSA in response to a National Oceanic and Atmospheric Administration (NOAA) notice of intent to issue guidelines on the use of non-lethal deterrence devices.

The February report contains:

- ✓ 1. News that two companion pieces of legislation have been introduced into the U.S. Senate and House of Representatives which, if passed, would establish a single Federal programme to regulate discharges incidental to the normal operation of vessels in U.S. waters (such discharges currently being regulated under both the

USCG and EPA). CSA is working with a coalition of shipping industry interests to encourage passage of the bills.

- ✓ 2. An update on the status of USCG Type Approval applications for ballast water treatment systems and on the development of ultraviolet testing protocols. CSA understands that at least nine systems are currently in the queue for testing, although neither the USCG nor the independent laboratories are able to provide further information.
3. The text of CSA comments on the proposed rulemaking on seafarer access to maritime facilities. CSA's comments outline its support for seafarer access to maritime facilities in a timely manner and at no cost to the seafarer. (The ICS Labour Affairs Committee has coordinated ICS input to the docket.)
4. News that, following the initial USCG public meeting regarding elements that should form the basis of guidance on maritime cybersecurity standards, CSA is now working with the USCG to develop appropriate guidance for private entities. Comments submitted by CSA as part of this collaboration are included in the report. (CSA is also collaborating with ICS on international approaches to this issue.)

Joe Francombe
Policy Officer

CHAMBER OF SHIPPING OF AMERICA

MONTHLY REPORT FOR THE INTERNATIONAL CHAMBER OF SHIPPING

FOR JANUARY 2015

NOTE TO THE READER: References 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.

Seafarers' Access to Maritime Facilities **(US Coast Guard Notice of Proposed Rulemaking and Public Meeting Federal Register, December 29, 2014 (Pg. 77981 – 77996))**

The US Coast Guard has published the above referenced proposed rule addressing seafarers' access to maritime facilities. Comments are due on the proposed rule by February 27, 2015 and international colleagues are urged to submit comments on this rulemaking as CSA and CSA members intend to provide as well.

This notice of proposed rulemaking proposes specific regulatory provisions that would provide seafarers and other individuals with access between vessels at a MTSA covered facility and the facility gate at no cost to the seafarer or other individual and would require the documentation of a system ensuring this access be included in the facility security plan (FSP) required under MTSA. While CSA believes that the required text to ensure access is already contained in MTSA and implementing regulations finalized in 2003, we will not look a gift horse in the mouth where an initiative is being taken by the USCG to tighten up the requirements to better ensure the desired end result e.g. reasonable access at no cost. The apparent need for additional text is supported by the fact that Congress included specific language in the USCG Authorization Act of 2010 and which this NPRM seeks to implement.

Based on anecdotal information received by the USCG, some in fact submitted by CSA, denial of access at certain facilities is a continuing problem although not at the frequency experienced in the past. Referencing a Seamen's Church Institute survey conducting from 2006 – 2014, it is still estimated that approximately 10% of MTSA controlled facilities either deny access altogether or make it so unreasonable and/or expensive that access is not practically available.

The proposed regulation would include the following requirements:

- FSP must include section addressing specific components included in the regulation including location of transit areas, duties/number of facility

personnel assigned to each duty to providing access, methods of escorting/monitoring individuals transiting the facility, agreements between facility and private parties engaged to provide access and the maximum time an individual would be required to wait for access to/from the vessel and the facility gate.

- Facility must include timely access provisions which is defined as “without unreasonable delay” which, as proposed, would be a case specific determination based on time the vessel is in port, distance between vessel and facility gate, vessel watch schedules, facility security/safety procedures as required by MTSA, and any other relevant factors. In this respect, CSA should propose that the length of the port stay is irrelevant and should not be included in these factors as even for short port stays, contractors and shore management personnel may well need to board the vessel for a variety of reasons.
- FSP for all MTSA facilities would have to be amended to include these new requirements no later than 1 year after this proposed rule goes final. CSA should urge implementation within 6 months of the final rule since these requirements have been in place for over a decade and have been conveniently ignored in the case of some facilities. These requirements should be no surprise to existing MTSA facilities and should be easily implemented and incorporated into the FSPs.
- “Individuals covered” by these access requirements include seafarers, pilots and “other authorized personnel”, representatives of seafarers’ welfare and labor organizations and “other authorized individuals”. Presumably service and repair contractors, storing providers and shoreside management would be covered in either of the quoted language above as noted at the top of the first column on page 77986.
- The proposed rule specifies specific methods from which a facility could choose to provide the required access. These methods include on-call or regularly scheduled escorts (owned or leased by the facility), taxi services (not owned by the facility but granted access to the route between the vessel and the facility gate), seafarers’ welfare organizations, monitored pedestrian routes or an equivalent method/strategy identified by the facility owner and approved by the COTP during FSP review. Note in these provisions that if the facility selects a primary method that relies upon the services of a third party, the facility must include a backup plan in the FSP in the event that the third party is not available to provide the required access.
- Provisions would require access be provided at no cost to the seafarer or other covered individual. They do not however preclude the imposition of exorbitant fees on the shipowner for the provision of these services. CSA must make the point that while the vessel owner should be expected to pay a reasonable price for these services, a charge by the facility which is unreasonable e.g. far and beyond the cost of the facility to provide these

services, should not meet the requirements of the regulation, otherwise we will continue the current situation in many locations where the vessel owner is charged ridiculous fees e.g. no cost to the seafarer or other individual, and chooses not to pay based on this unreasonable fee, and thus resulting in a no access situation. See Table 2 (Cost Matrix), item for section 105.237(e) at page 77889 where the comment in the cost and benefit column is noted as "cost may be passed onto the vessel".

Table 1 indicates that one of the benefits of the rule is to provide access to the estimated 907 seafarers and other individuals that were otherwise denied access based on the Seamen's Church Institute survey. CSA should propose that the costing data contained in Tables 3, 5 and 6 should reflect the costs (and benefits) of providing the required access to ALL seafarers and other individuals and not just the 907 that were identified as having previously been denied access.

USCG Public Meeting on Cybersecurity

The USCG held a public meeting in mid-January seeking public comments on what elements should form the basis of guidance on maritime cybersecurity standards. As expected, the USCG gave a brief overview of the issue and then opened the meeting for public comments. Key points made during the meeting are as follows:

- USCG is in the infancy stage of developing guidance or policy on Cybersecurity and whatever is created must be dynamic and flexible.
- USCG has not decided what direction they will take this and are heavily relying on input from industry.
- USCG is leaning toward cybersecurity being wrapped into the existing Maritime Transportation Security Act implementation programs. Currently, USCG's expectation for U.S. flagged ships is cybersecurity attacks should follow the same process as a breach of security under MTSA. USCG expects to be notified and the operator to follow the approved Vessel Security Plan for remedial action. At this time, the applicability of this concept to non-US flagged vessels remains to be determined.
- USCG recognized the need to establish a risk assessment and risk management process.
- Technical speakers discussed the broad definition and aspects of cybersecurity along with some very technical information.

The next steps for further work on this issue are as follows:

- CSA will work with industry colleagues over the next few weeks to collect comments.
- Written comments are due by February 17th thus any comments should be forwarded to CSA by February 10th in order to provide sufficient time for integration into CSA comments which will be submitted to the docket by the deadline.
- USCG will take several months to review the comments and put together a draft document.

- The draft document will be released and open for public comment period.

EPA Webinar on Filing of Vessel General Permit (VGP) Annual Report

EPA conducted its webinar on submitting vessel general permit (VGP) annual reports using EPA's eNOI system on January 7, 2015. EPA announced at the outset of the webinar that they had registered over 500 participants in this webinar representing over 25 countries. CSA not only advised member companies of this webinar but also communicated same to ICS and BIMCO, so it is expected that a number of our international colleagues also chose to participate in the webinar.

The presentation materials for the webinar will be available no later than one week from today and we will certainly forward those slides for your review and information. Although the webinar focused on a number of detailed issues associated with using the eNOI system to prepare and submit annual reports, several general points were noted as below:

- Annual report for vessels operating in US waters for 2014 are due no later than February 28, 2015
- All annual reports must be submitted electronically unless a vessel specific waiver is requested and granted by EPA.
- Annual reports are required for all vessels operating in US waters at any time during 2014 including those not required to submit eNOIs (smaller vessels)
- Annual reports may be submitted on an individual basis or in a batch format.
- If discharge monitor reports (DMRs) are required based on the nature of a vessel's operation and age, must use the batch upload format.
- Information which must be included in the annual report is contained in Appendix H of the 2013 VGP.
- When annual report is submitted, submitter will receive a confirmation of receipt from EPA. Copy of annual report will also be available for download and printing (recommended) in PDF format via the 2013 VGP eNOI website.
- Must first register as "preparer" (inputs data only) or "certifier" (attests that data submitted is true and accurate and may also input data) in EPA's Central Data Exchange (CDX). Definitions of these two terms can be found at 40 CFR 122.22. To do so requires completing the user registration form and then log in to EPA's 2013 VGP eNOI using username and password.
- Note if you have previously registered but have not used the system in the past 3 months, you will be prompted to update your password.
- Once individual registration is complete, must then associate the individual registration with a specific company e.g. in most cases this will be the vessel owner/operator.
- It is critical that owners/operators who will be required to submit the annual report by February 28, 2015, should begin the report preparation sooner rather than later to avoid unanticipated problems in report preparation and submission.
- Help functions can be found on pages of the CDX system including input pages for data.

- For questions on the eNOI and annual report requirements, help desk may be contacted at vgpenoi@epa.gov
- For questions related to the VGP requirements in general, help desk may be contacted at vgp@epa.gov

EPA Penalty Policy for Violations of Ships of the Sulfur in Fuel Standard and Related Provisions

EPA has issued its penalty policy for violations of the sulfur in fuel standard on January 15, 2015. A copy of the penalty policy is available on the EPA website at <http://www2.epa.gov/enforcement/marpol-annex-vi>.

Effective immediately, this policy will be applied to all enforcement actions initiated as a result of suspected violations by ships of the fuel oil sulfur levels required in the North American and Caribbean ECAs as adopted under MARPOL Annex VI. The goal of this policy is to deter potential violators, ensure fair and equitable assessment of penalties and expedite the resolution of claims associated with certain non-compliance events as determined by the USCG and EPA during port state control inspections. The goals of this policy are in full accordance with the industry's position that robust enforcement of the fuel provisions are to be supported to assure the maintenance of a level playing field and prevent the unfair economic benefits which would be accorded vessel owners who either negligently or intentionally choose to ignore the low sulfur fuel requirements in the North American and Caribbean ECAs. Under current US law, EPA may assess a civil penalty of up to \$25,000 per violation per day for violations which have been referred to EPA by the US Coast Guard. The total civil penalty assessed for a given event will be calculated "taking into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters as justice may require."

It is significant to note that while this policy was developed primarily to address violations of the fuel oil sulfur standards (Regulation 14.4), the policy specifically notes its applicability to other violations of MARPOL Annex VI, including maintenance and implementation of fuel oil change-over procedures including maintenance of a log recording specified change-over details (Regulation 14.6), maintenance on board of bunker delivery notes (Regulation 18) and retention of representative fuel oil samples (Regulation 18.8.1). Under this policy violations of any of these requirements would be viewed as a separate violation occurring for each day it occurred.

EPA's penalty policy contains two components, consistent with other EPA penalty policies, with the first component of the penalty policy relating to quantitatively determining the economic benefit of noncompliance, while the second component relates to the gravity components of the penalty. In practical application, each component would be calculated by EPA case staff and then certain adjustment factors noted below would be applied to arrive at a final penalty assessment for a given non-compliance event(s).

The first component, the "economic benefit component" serves as a deterrence by calculating and removing the economic benefits of noncompliance. In its simplest form, the economic benefit of non-compliance is the difference between the cost of compliant fuel less the actual cost of the noncompliant fuel used multiplied by the amount of (in metric tons) of non-compliant fuel burned while in the ECA.

The second component, the "gravity component" is intended to reflect the seriousness of the violation from EPA's perspective given a particular set of facts associated with the non-compliance event. The first factor to be considered here is the nature of the non-compliance which includes (1) fuel sulfur violations and/or (2) recordkeeping violations including failures to maintain a current IAPP, written procedures for fuel change-overs, maintenance of log book reflecting volumes of fuel oil as well as date/time/position of vessel at time changeover is completed, maintenance of bunker delivery notes and maintenance of a representative sample of fuel oil. It is important to note that the base calculation for fuel sulfur violations use Table 3 (page 8) which assesses a penalty per metric ton burned while in the ECA that increases significantly as the sulfur level in the non-compliant fuel used increases from the 0.1% compliance criteria.

Once the base gravity component is calculated as per the above, adjustments may be made to this amount based on other factors including degree of willfulness or negligence, degree of cooperation in resolving the violation, history of non-compliance by the cited party, litigation risk (case strengths/weaknesses), ability to pay, and the existence (or lack thereof) of ongoing supplemental environmental projects.

Noting that this policy is written for an audience composed of EPA legal case management staff (as well as defense attorneys for cited parties), much of the specifics of the policy are best left to those individuals. However, Table 5 (page 15) provides a good summary of the various penalty adjustment factors for penalties associated with both the economic benefit and gravity calculations and adjustments which may be made given other factors. It is an understatement to suggest that significant penalties could be assessed for violations of the Annex VI ECA requirements consistent with the industry position that robust enforcement of the ECA provisions is urged in order to assure a level playing field for all vessels trading in the ECA.

NOAA Notice of Intent to Issue Guidelines on the Use of Non-Lethal Deterrence Devices (Federal Register, December 29, 2014)

Based on the above referenced NOAA notice of intent to issue guidelines on the use of non-lethal deterrence devices, CSA has filed comments to the docket requesting that acoustic deterrents be included in the future NOAA/NMFS evaluations for the reasons provided below.

- 1) CSA has been engaged in discussions with NMFS on the issue of appropriate strategies to reduce the threat of ship collisions with North Atlantic Right

Whales off the East Coast of the United States for well over a decade. We have participated in the several workshops leading up to the proposal and finalization of the current regulation and provided extensive comments to the final regulations. In coordination with NMFS, we have also participated in extensive outreach and education of our member companies and their vessel crews to assure that they have a clear understanding of not only the regulatory requirements, but the justification for these requirements as well as additional voluntary measures that could be taken e.g. voluntary speed restrictions in DMAs.

- 2) CSA regularly transmits NOAA issued notices of DMA creations, reminders of SMA dates and requirements and any other information we believe will assist crews in compliance with not only the legal requirements but also urging compliance with those that are voluntary in nature. There can be no doubt that our member companies are dedicated to reduction of the risk from ship strikes.
- 3) CSA has also been engaged in a number of working groups focused on regional solutions to mitigate ship strikes including those focusing on the Cordell Bank and Gulf of Farallones National Marine Sanctuaries and approaches to the Ports of Los Angeles and Long Beach.
- 4) Efforts described above have been properly focused on reducing the co-location of ships and whales through modification of shipping lanes, implementation of mandatory seasonal management areas as well as voluntary dynamic management areas and an extensive outreach program to our industry colleagues.
- 5) At some point, the ability to implement further routing measures and speed restrictions reaches the point of diminishing returns both for the protection of marine mammals as well as the free, safe and environmentally responsible flow of trade in vessels.
- 6) During the discussions noted above and taking into account the point made in (5) above, noise making or acoustic deterrence devices have typically been brought up in the past and dismissed due to their adverse impact on whale behavior and health with little discussion on their potential benefits.
- 7) While we understand the concerns with the use of these devices regarding adverse impacts on marine mammals, we are not aware of any recent scientific studies which logically and comprehensively review the impacts of these devices in view of the potential benefit they may provide in the mitigation of ship strikes.
- 8) This issue was discussed at a workshop in July of 2008 where these strategies and technologies were discussed and considered and it was recognized that there was a further need for consideration of advancing these technologies. (Silber, Gregory K., Bettridge, Shannon and Cottingham,

David. *Report of a Workshop to Identify and Assess Technologies to Reduce Ship Strikes of Large Whales* (NOAA Technical Memorandum NMFS-OPR-42. May 2009)
http://www.nmfs.noaa.gov/pr/pdfs/shipstrike/technology_workshop_report.pdf

Given the justifications provided above, we would respectfully reiterate our request that the use and benefits of acoustic deterrence devices be incorporated into NOAA/NMFS's work plan to provide a regular review and consideration of these technologies and strategies. While we do not recommend any particular technologies or equipment designed for the underwater deterrence of marine mammals, consideration of these options are important providing they are able to be integrated into ship construction, normal operating conditions and are economically feasible.

CHAMBER OF SHIPPING OF AMERICA

MONTHLY REPORT FOR THE INTERNATIONAL CHAMBER OF SHIPPING

FOR FEBRUARY 2015

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Vessel Incidental Discharge Act Legislative Proposals (S 373/HR 980)

Two companion pieces of legislation have been introduced in the US Senate and House of Representatives which would establish a single federal program to regulate discharges incidental to the normal operation of vessels in US waters. If enacted, these proposals would eliminate the current programs which regulate these discharges under US Coast Guard (USCG) regulations and the EPA Vessel General Permit which although similar in content, create some conflicting provisions not the least of which is the USCG's recognition of extensions for the implementation schedule for ballast water treatment systems and the EPA's failure to fully recognize these extensions, notwithstanding EPA's low enforcement priority assignment to this issue. In addition, this legislation would eliminate the current situation where individual states are permitted to include more stringent requirements for the covered discharges in their state certifications ("401 certification") of the VGP.

These bills are yet another attempt by industry to normalize the current situation where the same discharges are regulated by two separate and distinct federal agencies. As regards timing, the Senate bill was expected to be marked up during the last week of February by the Senate Commerce Committee, although documentation of this markup has not yet been noted in the legislative record. Once marked up, the bill will be sent to the Senate floor for an as yet to be scheduled floor vote. The House companion bill is ready and waiting for House receipt of the agreed upon Senate bill at which time the House Transportation and Infrastructure Committee will take action on the House bill and any differences between the agreed upon Senate bill and House bill will be reconciled. CSA is once again working with a broad based industry coalition to seek the successful passage and reconciliation of these bills which once agreed, would be sent to the President for signature. As most are aware, this initiative represents the fifth time industry and Congress have collaborated in moving this initiative forward. We are optimistic that given the early introduction of these bills in the current Congress, we will have sufficient time to promote the necessary support in both houses to finally see enactment of these very important provisions.

- 1) 33 CFR 105.237(a), "...providing access in a timely manner, at no cost to the individual, and in accordance with the provisions in 33 CFR part 105."

The CSA strongly supports the provisions which require access be provided at no cost to the seafarer or other covered individual. To achieve this, CSA understands the vessel owner may be expected to pay a reasonable fee for these services. See Table 2 (Cost Matrix), item for section 105.237(e) at page 77889 where the comment in the cost and benefit column is noted as "cost may be passed onto the vessel".

However, this proposed rule will be circumvented if language is not added to designate "reasonable" fees "subject to review by the COTP." The proposed rule does not preclude the imposition of exorbitant fees on the ship owner for the provision of these services. Our members have experienced fees of \$1000 per transit from the vessel to the gate for less than a 10 minute drive. These fees charged by port facilities are well above the facilities cost for the service and leaves the ship owner little choice than to not pay this unreasonable fee. This results in a no access situation and leaves this regulation ineffective in these facilities where the current unsatisfactory situation will continue.

- 2) 33 CFR 105.237(c), "The length of time a vessel is scheduled to remain in port. For example, if a ship is in port for 6 hours, the COTP could determine that a 2-hour wait for access each way would be unreasonable. If the ship is in port for 2 weeks, the COTP could determine that a 2-hour wait for access is reasonable."

CSA believes the above language should be removed from the factors to be considered when determining "timely access". The length of a ship's port stay is irrelevant as even for long port stays, personnel will need to board the vessel in a timely manner for a variety of reasons including to stand watch and comply with rest hours as is stated as a separate factor in determining "timely access".

- 3) 33 CFR 105.237(a), "We propose to require implementation of the system within 1 year after publication of the final rule to provide facility owners and operators time to tailor a system specific to the facility."

CSA supports implementation of this rule within 6 months of the final rule. This is based on the fact that these requirements have been in place for over a decade and conveniently ignored in the case of some facilities. These requirements are no surprise to existing MTSA facilities and should be easily implemented and incorporated into the FSPs.

- 4) TABLE 1—SUMMARY OF AFFECTED POPULATION, COSTS, AND BENEFITS

Table 1 indicates that one of the benefits of the rule is to provide access to the estimated 907 seafarers and other individuals that were otherwise denied

access based on the Seamen's Church Institute survey. CSA proposes that the costing data contained in Tables 3, 5 and 6 should reflect the costs (and benefits) of providing the required access to ALL seafarers and other individuals based on number of entries/accesses and not just 907 individuals that were identified as having previously been denied access.

- 5) IV. Background, "This new provision was added in response to public comments regarding the difficulty that some foreign seafarers have experienced when seeking shore leave. (See 68 FR 60520)."

Understanding the basis from which this proposed rule originated, as a point of clarification CSA proposes this apply to all seafarers, foreign and American. It should be noted that the facility's process for providing access between vessels at a MTSA covered facility and the facility gate will likely not differ whether transporting foreign seafarers or U.S. seafarers.

[END QUOTE]

US Initiatives on Cybersecurity

Various agencies within the US government, including the US Coast Guard and sister agencies within the Department of Homeland Security are becoming quite active in providing guidance to private entities on cybersecurity. As noted in our last report, the USCG held a public meeting in mid-January seeking public comments on what elements should form the basis of guidance on maritime cybersecurity standards. Noting that most are in the infancy stages of addressing the cybersecurity threat as it relates to the maritime industry, CSA is working with BIMCO and ICS on international approaches to addressing this issue. CSA is also committed to working with the US Coast Guard in development of appropriate guidance which could be provided to private entities to address this issue. As part of this collaboration, CSA submitted comments to the docket which are reproduced in relevant part here.

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We support and are most appreciative of the proactive efforts by the USCG to help vessel operators identify, address and mitigate potential vulnerabilities to cyber-dependent systems that could contribute to a Transportation Security Incident. We also support the sharing of best practices and guidelines to protect critical maritime infrastructure and company assets. It is our opinion, that remedial measures not be limited to specific cybersecurity best practices, but also include a general improvement in risk assessment, design and management for all marine software intensive systems (in both engineering and administrative applications). With these fundamental principles in mind, we offer the following comments to the questions posed by the USCG noted in italic print below.

What cyber-dependent systems, commonly used in the maritime industry, could lead or contribute to a TSI if they failed, or were exploited by an adversary?

Automatic Identification System (AIS); Global Positioning System (GPS); Electronic Chart Display and Information System (ECDIS); GMDSS; Ship Security Alert System (SSAS); Load and Stability program; Ship's server including ship's email, Payroll System software, Safety Management System, Electronic reporting required by VGP, Preventative Maintenance System, Corrective Action System, Safety Reporting System, Tide and Current program, Voyage Planning software; Ship's RADARs/Steering console when in Auto-pilot, Container tracking devices and collection system, Engine Control software, Jammers could block SART and EPIRB effectiveness; Vessel Traffic System RADAR and tracking software.

What procedures or standards do vessel and facility operators now employ to identify potential cybersecurity vulnerabilities to their operations?

Procedures aimed; at protected servers in the company, password protection, limiting access to only pertinent websites, limiting email size, spam filters, software applications, internal audits, external audits, and training for colleagues.

Are there existing cybersecurity assurance programs in use by industry that the Coast Guard could recognize? If so, to what extent do these programs address vessel or facility systems that could lead to a TSI?

The ISO Standards below have been published to establish security management for cyber systems, risk management and business continuity. They contain various practical and useful best practices and standards to deter cybersecurity vulnerabilities that could lead to a TSI. Attempting to implement them all could prove quite costly and counterproductive. However, extracting pertinent information from each of these to develop a risk management and best practice approach rather than adoption of proscriptive standards would significantly benefit the industry.

- ISO 27001 (Information Security Management): Some Military Sealift Command RFP's, to operate MSC ships, request companies be ISO 27001 (Information Security Management) certified.
- ISO 27032 (Guidelines to Cybersecurity). Another standard of interest is ISO 27032 (Guidelines to Cybersecurity).
- ISO 28000 (Specification for security management systems for the supply chain): ISO 28000 (Specification for security management systems for the supply chain) has potential for useful techniques in risk management.
- ISO 22301 (Societal security -- Business continuity management systems)

To what extent do current security training programs for vessel and facility personnel address cybersecurity risks and best practices?

This is company dependent. Some larger companies, those that operate US Government contracts, and those who have a high risk due to the nature of their

business have mature cybersecurity systems and processes in place. For other companies, the ships and operations department functions, don't traditionally overlap with the IT department functions on a frequent basis, which could create a delay in the company in detecting an attack. Overall in the maritime industry, it is our understanding, the current awareness, comprehension and training on cybersecurity is not robust enough to detect an attack or further, deter one. This could lead to under-reporting and lack of corrective action as part of continuous improvement.

What factors should determine when manual backups or other nontechnical approaches are sufficient to address cybersecurity vulnerabilities?

Remedial measures should not be limited to specific cybersecurity best practices, but also include a general improvement in risk assessment, design and management for all marine software intensive systems (in both engineering and administrative applications). Additional factors that should be taken into consideration are cost, manpower, risk profile, and availability/feasibility of technical equipment to mitigate vulnerabilities.

How can the Coast Guard leverage Alternative Security Programs to help vessel and facility operators address cybersecurity risks?

With an ASP application to cybersecurity risks, the Coast Guard can give groups of similar vessels and/or facilities certain guidelines based on a risk assessment and risk management approach. From a maritime perspective we are not seeing directed cyber-attacks on shipping with the level of publicity of this topic. However, even in the absence of frequent or predominant cyber-attacks on ships currently, certain systems may be open and are larger targets for attacks based on a variety of factors including those which will provide the greatest TSI or financial impact.

How can vessel and facility operators reliably demonstrate to the Coast Guard that critical cyber-systems meet appropriate technical or procedural standards?

These processes for verification may be in place currently. For example, assessment could be done onboard ships concurrently with the MTSA audit and on the company side delegated to the RSO to be assessed during the annual DOC audit.

Do classification societies, protection and indemnity clubs, or insurers recognize cybersecurity best practices that could help the maritime industry and the Coast Guard address cybersecurity risks?

ABS, Lloyds Register, DNV GL, BV are beyond the recognition stage of cybersecurity as a threat to the industry. They have taken individual measures for themselves and their clients to assess vulnerabilities and risk, quantify data and provide measures to mitigate potential attacks.

BIMCO has established an internal cybersecurity working group which includes Chamber of Shipping of America and will present a draft cybersecurity paper for the June 2015 Marine Safety Committee at IMO.

European Telecommunications Standards Institute (ETSI) is an independent, non-profit organization, with a mission to produce globally- applicable Information and Communications Technology standards. Work related to maritime cybersecurity standards is carried out in the ETSI maritime group (ERM TG 26).

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