



# CHAMBER OF SHIPPING OF AMERICA

## MONTHLY REPORT FOR BIMCO

MARCH 2017

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**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.

### **US Coast Guard Clarifications on Ballast Water Extension Program**

(Coast Guard Marine Safety Information Bulletin, OES-MSIB Number 003/17)

On March 17, 2017, the USCG issued an MSIB addressing new policy changes in their ballast water management extension program. This document is a direct result of the US type approval of three ballast water management systems in December 2017. Prior to these US type approvals, the extension request application was quite simple in that it only need to request an extension based on the fact that no US type approvals existed. That obviously changed once these three systems received their US type approvals.

Notwithstanding the fact that 2 of these systems have minimum hold times of 72 hours making them unacceptable to vessels on shorter voyages and the other has a hydrogen gas venting requirement making it potential unusable on vessels based on already established hazardous area designation, the USCG will now require a vessel specific extension request that shows why these three systems are unacceptable to use on that vessel, based on a variety of factors including but not limited to flow rates, hold times, power level/consumption, water temperature and footprint limitations based on available space on existing vessels. The USCG has also indicated that even with a successful argument that no current US type approved systems are appropriate for use on a particular vessel, the extension request must include information on how the shipowner intends to comply with the requirements, including a timeline and installation plan. These latter requirements are difficult if not impossible to provide given that many vessel owners will still be looking at systems that have yet to receive a US type approval, making it difficult to predict with any certainty when a particular system would be ready for installation. The main point the USCG has made



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to us in ongoing discussions is that they want to see evidence that the shipowner is engaged in conversations with manufacturers of systems appropriate for a specific vessel and is making a good faith effort to comply with the regulations as soon as an appropriate system becomes available.

The MSIB also makes some significant changes to past policy:

First, recently issued extensions were timed in terms of “first scheduled drydocking” after a date certain. MSIB 003-17 reverses that policy and makes clear that future extensions will be issued to vessels based on a date certain in the future. Practically, this change in policy means that that a vessel may be required to conduct a drydocking for the sole purpose of BW treatment system installation.

Second, prior to the issuance of this MSIB, the USCG policy was that the AMS program and the extension were two separate and distinct programs such that a vessel with an installed AMS could apply for and receive an extension. This MSIB reverses that policy such that vessels with an AMS will NOT be granted an extension. While CSA continues to discuss this issue with USCG, a blanket application of this policy would result in a vessel with a poorly operating AMS (of which there are plenty) being forced to use the AMS, when if they had been granted an extension, they would be permitted to conduct ballast water exchange which is most certainly more environmentally protective than a poorly operating AMS. We hope to convince the USCG that under this situation, a vessel may apply for and receive an extension providing that it indicates in specificity the problems being encountered in the operation of the AMS.

Finally, supplemental extensions, previously allowed to be submitted within 90 days of the expiration of the current extension, must now be submitted one year prior to the expiration of the current extension/supplemental extension.

Given the harder line taken by the USCG and the political pressure that USCG is getting to move this program along, it should be expected that receiving an extension will be significantly more difficult, require much more additional information advocating as to why existing US type approved systems are not usable on a particular vessel and most likely be granted for a shorter period of time than prior extensions. Additional information on this issue may be viewed at [https://www.uscg.mil/msib/docs/003\\_17\\_3-6-2017.pdf](https://www.uscg.mil/msib/docs/003_17_3-6-2017.pdf)

Note: Reviewers are urged to use the most recent policy letters with regard to the ballast water extension program as significant policy changes have been made with the most recent publication of MSIB 003/17.



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### **President's Executive Order on Immigration (Part II)**

The White House has reissued its executive order on immigration which has been drafted in with arguably more narrow set of provisions. One clear point is the US will honor already issued visas of any type which arguably resolves to some degree our initial concerns re: mariners seeking shore leave and/or embarkation/disembarkation. CSA's advice to shipowners continues to recommend crew changes outside US ports where possible.

### **Crude Oil/LNG Carriage Mandates for US Flag Vessels** **(HR 1240 – The Energizing American Maritime Act)**

As has been the case in previous sessions of Congress, Congressman John Garamendi (D-CA), ranking member of the House Coast Guard and Maritime Transportation subcommittee, has introduced the above referenced bill in the House of Representatives. The bill is also sponsored by Congressman Duncan Hunter (R-CA), the Chairman of the House Coast Guard and Maritime Transportation subcommittee. This bill has been referred to the House Energy and Commerce and House Foreign Affairs Committees. No hearings or further actions have been scheduled as of March 29, 2017.

Of interest here is that the sponsors are Democrat and Republican respectively e.g. bi-partisan, so there is a good chance that this bill will at the very least receive hearings in one of the committees of jurisdiction noted in the "action expected" section above. Another change in the profile of this issue is the position of the Trump Administration and its focus on US jobs and the US economy and arguably the new US Trade Representative would espouse those same views. Notwithstanding the Trump Administration position, there are still international trade agreements which would likely not look favorable on some of the bill's provisions as detailed below.

In general, the bill would require a certain percentage of LNG and crude oil exports to be transported on US flag vessels as follows:

- 15% of LNG and crude exports for the years 2020 through 2024
- 30% of LNG and crude exports for the years 2025 and beyond

An additional requirement in the bill requires as a condition of the permit to export LNG that the permittee provide "opportunities" for US mariners to "receive experience and training necessary for them to become credentialed in working on" an LNG vessel. While not specifying in detail what this text would practically require, it is expected that it would be interpreted as requiring billets be assigned on permittee's vessels for US mariners to receive the necessary experience to receive that credential likely in the form of supernumerary positions.



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**STCW 2010 Amendments**

The US followed IMO's recommendation to delay enforcement of the STCW 2010 Amendments until July 1, 2017. This delayed enforcement applies to the 2010 STCW Amendments ONLY and to US Flag ships and foreign flagged ships calling US ports. When other STCW related deficiencies are identified, USCG will take control actions as appropriate. USCG will review STCW 2010 amendments during examinations and note any deficiencies found but enforcement action will not be taken.

Internationally, it is the decision of the Port State the vessel is calling on whether or not they follow the IMO recommendation to delay enforcement. Vessels with crew that do not currently fully comply with the STCW 2010 amendments should be aware of this when calling foreign ports.



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