



CHAMBER OF SHIPPING OF AMERICA

MONTHLY REPORT FOR BIMCO

July 2018

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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.

Maritime Safety Act of 2018

The Maritime Safety Act of 2018 is one pillar of the Save our Seas Act which was passed by verbal vote through the House and is now at the Senate Committee on Commerce, Science, and Transportation. The House Transportation Committee and the Congressional Budget Office requested CSA to comment on multiple drafts of this bill which we did. CSA had success educating and steering aspects of the Bill to a more favorable outcome from the initial requirements.

We do believe this Bill has legs and will move forward to law because it is a bipartisan Bill and more importantly includes aspects very important to both parties. It was also originally a Senate Bill which the House made significant changes to and is now back at the Senate. Through conversations with the Committee we expect some minor changes to be made to this Bill by the Senate Commerce Committee and additional bills to be added to the Save Our Seas Act of 2018 before going back to the House for approval. **Once the Bill is final with no additional changes CSA will send out an analysis to members.**

Maritime Regulatory Reform Request for Comments

The Office of Management and Budget (OMB) has extended the deadline for comments on how existing agency requirements affecting the maritime sector can be modified or repealed to increase efficiency, reduce or eliminate unnecessary or unjustified regulatory burdens, or simplify regulatory compliance while continuing to meet statutory missions to August 30, 2018.



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CSA's final comments were submitted to the Federal docket before the original deadline. To date, 137 comments have been submitted. We can submit additional member's comments before the new deadline. If you have any additional comments, please contact Sean Kline.

Link to CSA's comments: [Maritime Regulatory Reform RFI - OMB - CSA Comments to Federal Docket](#)

USCG – Vessel Response Plan – Salvage and Marine Firefighting Geographic Specific Appendices (GSAs)

The US Coast Guard has determined that resource listings for contracted salvage and marine firefighting services may be incorporated by reference into vessel response plans (versus submitting detailed salvage and marine firefighting information) but only for those resource providers with whom the vessel owner/operator have established contracts and funding agreements as required by 33 CFR Part 155 Subpart I. The following resource providers have voluntarily submitted for USCG review:

Ardent Americas LLC
Donjon-Smit LLC
Resolve Salvage and Fire (Americas), Inc.
T&T Salvage LLC

A copy of the USCG document relating to this information is available at the link: [VRPs - USCG List of Core SMFF GSAs](#)

Ballast Water - Discussions with USCG on Current Extension Policy

A small group of interested parties including CSA, have engaged USCG in discussions on current issues associated with the current USCG extension policy relating to compliance dates with the US ballast water regulations. As most know, the US has issued type approvals to 9 systems with an additional 20 systems in the queue for testing and review by USCG. As more systems become available, it will become increasingly more difficult for the USCG to justify an extension unless sufficient detailed information (including timelines and plans for purchase and installation) is provided to the USCG in an extension request package. CSA appreciates the willingness of the USCG to discuss these issues with an aim to resolution in a mutually acceptable manner taking into account the limited flexibility the USCG has in granting these extensions.

The points discussed with USCG are as follows:



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Overview: The maritime industry is committed to working with the USCG and other governments to ensure compliance with the US ballast water regulations and the IMO Convention requirements. We also recognize the need for a transition period as new ballast water management systems (BWMS) come on line, receive type approvals and are installed on vessels. It is in the best interests of the regulators and the regulated community to ensure that systems with US/IMO type approvals and systems that are in the queue to receive a US/IMO type approvals actually perform as tested once installed on board vessels. The USCG, recognizing the need for an orderly transition, created the extension and AMS acceptance programs to allow vessel owners to intelligently and selectively evaluate BWMSs to ensure they are fit for purpose and actually meet the regulatory requirements in real world operation.

To further facilitate the discussion between industry and the USCG, we would like to discuss some specific concepts and aspects of the US ballast water regulations, specifically implementation issues, with an aim to further the orderly transition to the installation and use of compliant BWMSs. In no way do these issues suggest that leeway should be given to vessel owners who may have used these programs to simply delay system installations, but rather these issues are presented in light of the many vessel owners who have installed AMS systems and/or who are pursuing the purchase and installation of systems that have received type approvals, are in the queue to receive US type approvals, or in the process of USCG type approval testing.

- **The cost benefit analysis conducted prior to finalization of the US ballast water regulations assumed that system installations would occur during scheduled drydockings.** Recent decisions on extensions by the USCG have significantly limited their duration and make the assumption that systems can be installed without taking a vessel out of service or will be installed during an unscheduled drydocking expressly for the purpose of ballast water system installation. As to the former, previous attempts to install without taking a vessel out of service has resulted in a number of post-installation problems that ultimately result in poorly operating systems, which may not result in compliant discharges. As to the latter, basing extension duration on a requirement to conduct an unscheduled drydocking for ballast water system installation was not contemplated during the rulemaking and should not be required now due to the excessive cost associated with out of service time and drydocking costs, including commercial disruptions of long-term charter arrangements and other contractual obligations.
- **Drydockings are needed for most BWMS installations due to safety requirements, the need for engineering retrofits, including piping, and other operational considerations (e.g., post installation testing, need for cleaning of ballast water tanks prior to testing, crew training, and the like).** We are aware of a number of situations where



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vessel owners actually tried to conduct the installation while the vessel was in service. None of the outcomes were favorable and none were able to be completed in the time frame/schedule as predicted by the manufacturer. While the system itself may be able to be installed while the vessel is in service, additional piping requirements, operational testing and crew training cannot be completed until the system itself is integrated into the existing piping systems on board, which of course, are always in use, while the vessel is in service.

- **The current 12-month extension limitation with few coincidental exceptions, does not align with survey and scheduled drydocking periods.** As noted above, installation of BWMSs is best done in the drydock. Given that the cost benefit analysis did not contemplate installation during an unscheduled drydocking, which incurs additional cost associated with pulling the vessel out of service and possible breaches of charter/contractual obligations, specific extensions should align with a vessel's next scheduled drydocking.
- **Drydocking slippages are common occurrences due to conditions outside the control of the shipowner.** Drydocking slippages may occur due to weather conditions, availability of the drydock, delays regarding ships in the drydock getting out of the drydock, other delays not attributable to the shipowner, delays in the completion of a particular voyage preceding the drydock, and the need for a vessel charterer to grant permission to proceed to the drydock and go out of service. We note that the shipowner is required by the charterer to maintain compliance with all existing legal requirements, but class/flag are able to grant extensions to going into drydock not exceeding three months for good cause. Drydocking slippages of less than three months should not reduce existing extensions and penalize shipowners for actions outside their control. Taken a step further, it is recommended that revision of existing extensions due to drydocking slippage take into account the normal up to 90-day window allotted by Class, providing the USCG grants permission based on the above scenarios after presentation of relevant facts by the shipowner that such an extension is warranted.
- **Inconsistencies in extension request decisions continue to exist.** In some cases, separate extension requests, as required by USCG policy, have been filed for multiple ships in a given class in a fleet with virtually identical supporting information. In these cases, some of the extension requests are granted, while others are denied or granted reduced extension periods with no explanation for the different results given the same supporting information. With this in mind, there is clearly a need for a common set of criteria, interpreted the same way by those individuals that are reviewing the extension requests. The industry would be willing to work with the extension review team to provide generic information on relevant criteria in making a fact based decision.



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- **All of the current US type approved systems have limitations, e.g., holding time, service networks, and company history, that make more options necessary.** As the USCG is aware, there are a number of limitations issued in current type approvals that suggest the need for a wider selection of BWMSs. While there may be several type approved systems which, on the surface, appear fit for purpose based on footprint, flow rates and availability, it is in the best interests of vessel safety and environmental protection that shipowners be provided the leeway to select the best option for their specific application and for shipowners to have the flexibility to use the same BWMSs fleetwide, rather than be possibly forced into a hodgepodge of different BWMSs. As an example, some shipowners have requested extensions based on delay in procurement or pendency of US type approval of one treatment system, which does not require storage and handling of chemicals on board. Approximately 20 systems are in the process of USCG type approval testing. Many delays have been due to issues with the various independent laboratories and their testing facilities.
- **Currently there are 9 USCG type approved systems of which 5 have received amended type approvals in late 2017 and early 2018 and 4 have amended type approvals pending, which means that a significant percentage of the originally type approved systems have or will receive an amended type approval with different operating limitations.** A shipowner that has or is about to install a USCG type approved system must have the necessary time to evaluate and accommodate new operating limitations into their BWMS implementation strategy, including required design and installation components, as well as revision of the onboard operating procedures and updated crew training. Extensions should take this into account. In approximately 1-2 years, the needs for extensions should dramatically reduce to due an increase in USCG type approved BWMS options or need for compliance with the BWM Convention. In light of the substantial capital investment involved with the selection/installation of a BWMS in an overall down shipping market and the significant compliance challenges and risks, the USCG exercising its reasonable discretion over the next 1-2 years, when good cause is shown, is a prudent way forward and consistent with the intent and purpose of the Presidential Executive Order on Reducing Regulation and Controlling Regulatory Costs.
- **Vessels which have installed AMS systems on board should be granted a suitable extension where the system receives US type approval albeit of a different version and/or operating restrictions.** Vessel owners that have expended significant resources on a particular AMS system installation should be granted an extension to provide sufficient time to upgrade the system consistent with the changed conditions in the US type approval, e.g., modification to system and/or new operating restrictions.



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Update on Commercial Vessel Incidental Discharge Act (CVIDA)

Robust negotiations continue among the maritime industry Senate staff. Multiple drafts have been presented and reviewed with the ultimate goal of finding text agreeable to all which would enable the bill to be passed by the Senate. If successful, the bill would then move to the House of Representatives where it would be expected to garner sufficient support for passage.

VGP 3.0 – Where is it?

As reported last month, given the expiration of VGP 2.0 in mid-December 2018 and the critical need to have something in place e.g. VGP 3.0 when VGP 2.0 expires (the Clean Water Act requires these discharges to be covered by a discharge permit), CSA continues discussions with EPA on possible alternatives including extension of the current VGP 2.0 for some period of time or reissuance of VGP 2.0 as VGP 3.0 for the full 5 year permit term. CSA has nothing new to report this month but will provide updates as information becomes available.



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