



# CHAMBER OF SHIPPING OF AMERICA

## MONTHLY REPORT FOR BIMCO

JULY 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.

### **All Quiet on the "Western" Front?**

While the summer months are generally quiet here in Washington, DC relative to maritime issues, as is the case in other parts of the world, this first summer of the Trump Administration, has been very quiet both at the legislative and regulatory levels.....unless of course you are interested in health care, tax reform, and border protection. Of particular note is the lack of regulatory initiatives that are being moved forward including those that were in the final stages of the rulemaking process. We suspect that this lack of activity is a result of an executive order which essentially requires federal agencies to (1) review and solicit comments on all existing agency regulations with a few to minimizing their impact on business (regulatory reform) and (2) if a new regulation is deemed necessary, the sponsoring agency must find 2 other regulations which are deemed unnecessary and repeal those regulations before promulgating the new regulation. In our opinion, the need for regulation (or lack thereof) is not a mathematical formula and while we appreciate that some of the pressure for new regulations has been removed, CSA continues to support the fundamental that regulations should be specifically focused on a particular problem, be effective, and subject to a risk benefits analysis, this fundamental applicable to both existing regulations and those yet to be proposed. We will keep you updated on any changes to the current situation.

### **McCain Jones Act Repeal Bill**

As per past history, Sen. John McCain (R-Arizona) has again introduced a bill (S 1561) entitled "Open America's Waters Act of 2017" which would repeal the Merchant Marine Act of 1920, more commonly known as the Jones Act, citing its past application as hindering free trade, stifling the economy, requiring shippers to purchase higher cost transportation and ultimately harming the



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consumer. Without regard to support or opposition, it is difficult to reconcile Sen. McCain's disdain for the Jones Act with his ardent support for military readiness which of course introduces the concept of US flagged merchant vessels (and mariners) being ready to meet marine transportation needs of the Department of Defense in the event of a foreign deployment of US assets. As noted previously, CSA supports the Jones Act as it currently stands and does not support a reopening of the statute either for purposes of strengthening or weakening its current provisions. Introduction of this bill has understandably again rallied the maritime labor unions and US flag operators against this proposition. The only wild card in the equation at this time is the position of the Trump Administration (pro-trade but also pro-US jobs) although it is expected that the President's Secretary of Transportation Elaine Chao, who is a friend of the US marine transportation industry, would not be in favor of S 1561. The bill has been referred to the Senate Commerce Committee with no further action or hearings scheduled as of this writing.

### **US Ballast Water Management Program – New Documents Released by US Coast Guard**

In July, the USCG released three documents summarizing the requirements of the US ballast water management regime and included details on where the US program differs from the IMO requirements. All documents may be accessed at the hot link found below.

The first document is a newly revised Frequently Asked Questions (FAQ) document which combines the three previous FAQ documents into one document arranged by subject matter. This is a significant improvement since the user need not search multiple documents to find the specific subject matter on which information is needed. This document is found under the first header "FAQ" at the hot link below.

The second two documents are PowerPoint files prepared and updated by the USCG for presentations at the various conferences in which they participate. CSA has quickly reviewed these documents and there are no real surprises save one. On page 5 of the document entitled "US Ballast Water Regulations Program", the third primary bullet states "Vessels with AMS will not receive new or supplemental extensions. Those vessels are expected to use the AMS." CSA and others have problems with this decision given that a number of installed AMS systems are not performing adequately and in these cases, if this policy decision is to be practically applied, every vessel inbound for a US port with an inoperable or sub operable AMS system must, for each voyage, contact the COTP, advise that the system is not operable and then find themselves at the mercy of the COTP as to what contingency measure will be applied to that vessel. We believe it would be far more practical and environmentally protective to continue to issue extensions to vessels in this scenario which would (1)



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require a compliant deep ocean exchange be executed (2) preclude the need for COTP decisions on contingency measures for each port visit and (3) minimize the risk of invasions if less protective contingency measures are imposed. CSA will continue to pursue a practical resolution to this issue and will advise in a timely manner of any changes in policy.

[https://homeport.uscg.mil/mycg/portal/ep/channelView.do?channelId=-18366&channelPage=%2Fep%2Fchannel%2Fdefault.jsp&pageTypeId=13489&BV\\_SessionID=@@0510908996.1501768390@@@&BV\\_EngineID=cccfadhdeimflikcefecfindfkldffo.0](https://homeport.uscg.mil/mycg/portal/ep/channelView.do?channelId=-18366&channelPage=%2Fep%2Fchannel%2Fdefault.jsp&pageTypeId=13489&BV_SessionID=@@0510908996.1501768390@@@&BV_EngineID=cccfadhdeimflikcefecfindfkldffo.0)

### **USCG Request for Comments on Regulatory Reform Extended**

As you recall from last month's report, the US Coast Guard issued a request for comments on its current regulations and requests information as to which regulations should be reviewed with an aim to repeal, replace or modify them.

CSA submitted comments on July 9, 2017 ahead of the deadline which was later extended until September 11, 2017. CSA comments submitted to the Federal Docket were emailed out to members for review and to provide CSA with any additional comments that should be added to the submission. A copy of the Federal register notice may be viewed at [FR Vol 80-109 Evaluation of Existing Coast Guard Regulations](#)

### **New ECDIS Standards Install / Deadline Issues**

As a reminder from last month, the deadline for installation of the updated set of ECDIS standards is August 31, 2017. Feedback has been that Members have spent excessive unnecessary cost, had technical challenges, connectivity problems, and Administrative headaches most of which still are unresolved. Members feel this is mainly due to the ECDIS manufacturers delay in receiving type approval, unavailability of technicians to perform upgrades, manufacturer technician's difficulty installing the software on various ships, which then led to lab troubleshooting, system patches and testing with mixed success and additional cost. Operators were pushed by certain manufacturers to purchase a full hardware and software upgrade and buy their charts. Though some members acted in good faith and started these upgrades early, they have stated they may not meet the deadline due to circumstances beyond their control. It is unlikely that IHO will extend the deadline though the International Chamber of Shipping has requested such.

USCG has stated that there is no requirement to re-submit an ECDIS for type-approval if a new standard is released during the period of validity so long as



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the update does not fall under the provisions stated on the type-approval letter.

### **Customs Trade Partnership Against Terrorism (C-TPAT) Reauthorization**

Rep. Martha McSally (R-Arizona) has introduced a bill (HR-3551) which would reauthorize C-TPAT, which has not been done in 11 years. The original C-TPAT was created as part of the Safe Port Act of 2006 and creates a “trusted user” program in the global supply chain which allows companies to partner with CBP to enhance security throughout the logistics chain. CBP works with C-TPAT applicants and participants in protecting the supply chain, identifying security gaps and implementation of certain security measures and best practices. Once approved as a participant, companies benefit from shorter wait times and fewer inspections at ports of industry. Noting that the bill sponsor is from Arizona, it is no surprise that the intended focus of this initiative is likely on land border crossings, but the proposal is expected to provide “new life” by ensuring the program is updated to reflect current threats at all points of entry. In assessing the likelihood of action on this proposal, it is noteworthy that the Chairman of the House Homeland Security Committee, Rep. Mike McCaul (R-Texas) is a co-sponsor of the bill which bodes well for future action in the future.

### **Regulatory Reform – NOAA Request for Comments**

As we have reported in the past with regard to the US Coast Guard and the US EPA, all federal agencies are initiating a regulatory reform based request for comments, at the request of the Trump Administration, to receive information on regulations which are viewed as unnecessary, outdated, ineffective, non-cost-effective or inhibit or eliminate job creation. NOAA has published such a request in the July 7, 2017 Federal Register. CSA intends to submit comments to this request with a focus on the current regulations relating to speed restrictions to minimize ship strikes of whales off the US East Coast. A copy of relevant parts of these comments will be included in the next edition of our monthly report. It is anticipated that our comments will urge NOAA to rescind the current regulations which are based on seasonal management areas (where whales were last year) and refocus the speed restriction requirements on dynamic management areas (where whales are in real time). CSA will also suggest that the relationship between speed restrictions and whale strikes (versus FATAL whale strikes) have been misinterpreted and applied as the basis of the current regulations.