



CHAMBER OF SHIPPING OF AMERICA

MONTHLY REPORT

DECEMBER 2018

- **Provided testimony on Arctic shipping to the Senate Commerce Committee.**
- **Co-chaired industry/USCG meeting on ballast water implementation.**
- **Presented at the American Pilot Association eNavigation Conference in Seattle.**
- **Made presentation at the December Cotton Club meeting on trade and environmental issues of impact to the maritime industry.**
- **Participated in the US Friends of the World Maritime University Board meeting.**
- **Attended the Propeller Club of DC Christmas celebration.**
- **Give CSA a follow on  @CSAKnowships**

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.

CHAMBER OF SHIPPING OF AMERICA

Enactment of the Vessel Incidental Discharge Act (VIDA)

On Tuesday, December 4, 2018, the President signed into law S. 140, the "Frank LoBiondo Coast Guard Authorization Act of 2018," which authorizes appropriations for the United States Coast Guard and the Federal Maritime Commission through Fiscal Year 2019; reauthorizes the Department of Commerce's National Oceanic and Atmospheric Administration's hydrographic services program through Fiscal Year 2023; and modifies the regulation of vessel incidental discharge and ballast water (VIDA).

EPA published a notice outlining the status of the current VGP and the expected timeline in the promulgation of new regulations which is reproduced in full below. Please pay particular note to the yellow highlighted portion of this text as since VIDA has been enacted, which permits vessels to file NOIs after December 18, 2018.

[BEGIN QUOTE] This week, on December 4, 2018, President Trump signed into law the Vessel Incidental Discharge Act (VIDA): Title IX of the Frank LoBiondo Coast Guard Reauthorization Act of 2018. VIDA establishes a new



CHAMBER OF SHIPPING OF AMERICA

framework for the regulation of vessel incidental discharges, adding a new Clean Water Act (CWA) Section 312(p): Uniform National Standards for Discharges Incidental to Normal Operation of Vessels. The U.S. Environmental Protection Agency (EPA) and the U.S. Coast Guard (USCG) are still assessing the implications of this new law but several important points are provided below.

Vessel General Permit (VGP)

The VGP will not be reissued but the existing 2013 VGP requirements remain in force and effect beyond the current expiration date of that permit until such time that new regulations are finalized and enforceable. Specifically, the provisions of the 2013 VGP, as currently written, apply until EPA publishes National Standards of Performance (NSPs) and the USCG develops implementing regulations for those NSPs (~ 4 years).

Note: An email sent from EPA's Office of Wastewater Management to stakeholders on October 10, 2018 indicated that EPA would be late in reissuing the 2013 VGP and specified that new vessels would be unable to obtain coverage under that permit after December 18, 2018. The email strongly encouraged operators to submit any Notices of Intent (NOIs) for coverage under that permit prior to that date. However, as a result of VIDA, NOIs can be submitted after December 18, 2018, consistent with the 2013 VGP requirements (i.e., operators must submit NOIs at least one week prior to discharging in waters subject to the permit).

Small Vessel General Permit (sVGP)

The sVGP is repealed effective immediately. Specifically, discharges incidental to the normal operation, except for ballast water, from small vessels (i.e., less than 79 feet in length) and commercial fishing vessels of all sizes no longer require National Pollutant Discharge Elimination System (NPDES) permit coverage. Thus, permit coverage for any vessel covered under the sVGP is automatically terminated. No further action on the part of vessel operators is required to complete this termination.

Any small vessel or commercial fishing vessel covered under the sVGP that will discharge ballast water into waters of the U.S. must obtain permit coverage under the VGP for those ballast water discharges.

Look for further updates in the coming months on the implications of this new CWA Section 312(p): Uniform National Standards for Discharges Incidental to Normal Operation of Vessels.

For additional updates, please visit <https://www.epa.gov/npdes/vessels> or contact us about vessel discharges via email at vgp@epa.gov. **[END QUOTE]**



CHAMBER OF SHIPPING OF AMERICA

CSA Testimony on Arctic Shipping Before the Senate Commerce Committee

CSA was invited to provide testimony addressing Arctic Shipping to the Senate Commerce Committee (Oceans Subcommittee) on December 6, 2018. A copy of our testimony is reproduced in full below.

[BEGIN TESTIMONY] Good morning, Chairman Sullivan, Ranking Member Baldwin and Members of the Subcommittee. We appreciate the opportunity to provide testimony at this hearing to discuss emerging transportation issues in the changing Arctic region.

Mister Chairman, we respectfully request that our testimony be entered into the record for this hearing.

I am Kathy Metcalf, President and CEO of the Chamber of Shipping of America (CSA). CSA represents member companies which are U.S. based that own, operate or charter both US and non-US flag oceangoing tankers, container ships, and other merchant vessels engaged in both the domestic and international trades. Several of our members conduct operations in the Arctic region including operations based in US waters.

Shipping in Arctic Waters

Recent observations and projections for the future suggest that thinner ice and longer ice free periods could result in the possibility of increased international shipping activity in the Arctic. There are four main types of operations in the Arctic, all of which are projected to increase in volume in the future:

- 1) offshore support vessel activities supporting offshore exploration activities
- 2) destination transport with ships moving energy, raw materials and goods from and between Arctic ports and the rest of the world
- 3) trans-Arctic shipping using commercially viable intercontinental Arctic sea routes connecting the Atlantic and Pacific Oceans via the Northern (Russian) Sea Route (NSR) and potentially in the future, via the Northwest Passage (Canadian)
- 4) cruise shipping and tourism

Technical developments in ship design, construction and equipment that make operations possible in these remote regions with challenging and unpredictable



CHAMBER OF SHIPPING OF AMERICA

sea and weather conditions, are stimulating increased interest in Arctic shipping driven for the most part by the increasing demand for shipping services that can support the activities noted above.

Increased efficiencies in long range transportation routes can be appreciated by noting that a voyage between Tokyo, Japan and Hamburg, Germany via the Suez Canal is approximately 14,000 nautical miles with a duration of approximately 50 days, while the same voyage transiting the Northern Sea Route would be approximately 8000 nautical miles with a duration of approximately 35 days resulting in more fuel and time efficient transport of cargoes with a resulting reduction in air emissions due to the significant reduction in transit miles.

In view of the anticipated increases in shipping services in the Arctic, there is a growing awareness within the international community about the impact of these increased activities on the sensitivity of Arctic ecosystems and the need for a high degree of care by vessels operating in and through the Arctic. The global shipping industry fully acknowledges these concerns and is totally committed to the protection of the Arctic marine environment, the prevention of pollution and the safe operation of vessels in this area.

Arctic Governance Issues

In 1996, the Arctic Council was formed to promote cooperation, coordination and interaction among the Arctic States, Arctic indigenous communities and other stakeholders with a focus on sustainable development and environmental protection. The Ottawa Declaration established membership in the Arctic Council to include Canada, Denmark, Finland, Iceland, Norway, the Russian Federation, Sweden and the United States. In addition, six organizations representing Arctic indigenous peoples have status as Permanent Participants and an observer status exists which is open to non-Arctic states and other entities that the Council determines can contribute to its work.

The work of the Arctic Council is conducted through six working groups which are the Arctic Contaminants Action Program (ACAP), Arctic Monitoring and Assessment Programme (AMAP), Conservation of Arctic Flora and Fauna (CAFF), Emergency Prevention, Preparedness and Response (EPPR), Protection of the Marine Environment (PAME), and Sustainable Development Working Group ((SDWG). While all carry out vital projects, EPPR and PAME are the two principle working groups relative to Arctic shipping issues. In 2002, the Council requested PAME to develop a strategic plan for the protection of the Arctic marine environment which was approved as "The Arctic Strategic Plan (AMSP)" in 2004 with four strategic goals including reduction and prevention of pollution, conservation of Arctic marine diversity and ecosystem functions, promotion of the health and prosperity of all Arctic inhabitants and the advancement of sustainable Arctic marine resource use. PAME was also



CHAMBER OF SHIPPING OF AMERICA

charged with developing the Arctic Marine Shipping Assessment which was agreed by the Council in 2009 and is the subject of periodic status reports with the most recent published in May 2017.

Most recently under the leadership of PAME, the Arctic Shipping Best Practices Information Forum was created to raise awareness of the provisions of the IMO Polar Code and to facilitate the exchange of information and best practices among the forum participants. In addition a number of Arctic Shipping Forums/Conferences have been convened or are planned to facilitate discussions among all stakeholders on critical issues and promote the sharing of information which include governance issues as well as operational issues.

Principles with Respect to the Regulation of Ships and the Governance of Maritime Activity in the Arctic

The international shipping industry through the International Chamber of Shipping (ICS) and its member national associations, of which CSA is a founding member, has identified 7 key principles related to maritime activities in the Arctic:

- 1) Maintenance of a global framework regulating Arctic shipping under the auspices of the International Maritime Organization (IMO), to ensure the creation and implementation of comprehensive and consistent requirements for safety and environmental protection.
- 2) Development of Arctic maritime infrastructure to support safety and environmental protection including programs to address aids to navigation, nautical charts, satellite communications, bunkering facilities, port reception facilities for ship's waste, pilotage in shallow passage areas, ice-breaking capabilities, search and rescue infrastructure and the provisions of "places of refuge".
- 3) Full participation of shipping nations in the decision making processes associated with the development of Arctic shipping requirements and programs. The rights of the nations which compose the Arctic Council are acknowledged however these rights should always be exercised in a manner that remains consistent with the UN Convention on the Law of the Sea (UNCLOS) and existing IMO conventions, including the recently implemented Polar Code which amended the International Convention for the Safety of Life at Sea (SOLAS) and the International Convention for the Prevention of Pollution from Ships (MARPOL).
- 4) Full and free market access and freedom of navigation. Unilateral, national or regional regulations governing ship safety, environmental protection or other shipping matters should be avoided and must not disadvantage ships registered in non-Arctic nations. The UNCLOS



CHAMBER OF SHIPPING OF AMERICA

regime of transit passage for straits used for international navigation should be given full force and effect. Likewise, regulations governing market access should be consistent with commitments made by governments at the World Trade Organization (WTO).

- 5) Need for legal clarity about the status of the Arctic. Outstanding questions about the legal status of Arctic waters need to be clarified at the United Nations level. In general, in all waters (other than “internal waters”), the right of innocent passage within the Exclusive Economic Zone (EEZ) enshrined in UNCLOS should always apply. Further clarification is needed as to the definition of “internal waters” as well as the relationship between coastal states’ rights and the principles of innocent passage and transit passage enshrined in UNCLOS. International shipping needs clarity with respect to which nations or organizations are responsible for ensuring the safety and environmentally responsible operations of ships operating in Arctic waters.
- 6) Transparency of national regulations. Although the shipping industry promotes the concept of globally consistent regulations for Arctic shipping consistent with UNCLOS and IMO conventions, if national requirements are to be put in place they should be clear, understandable and accessible to the shipping industry to ensure successful compliance.
- 7) Reducing bureaucracy and setting appropriate fees for services. Consistent with coastal nations’ rights and obligations under UNCLOS, the development of Arctic shipping and the services necessary to assure safe and environmentally responsible operations should be fair, transparent and avoid the creation of monopolistic practices where it is determined that fees should be assessed on users. These processes should reconcile the need for both environmental and economic sustainability and will require the provision of maritime services that are competitive and cost efficient.

The IMO International Code of Safety for Ships Operating in Polar Waters (The Polar Code)

The Polar Code and related amendments to SOLAS and MARPOL, which entered into force on 1 January 2017, is intended to cover the full range of shipping related issues relevant to navigation in waters surrounding both the North and South poles including ship design, construction and equipment, operational and training concerns, search and rescue, and protection of the unique environment and eco-systems of the polar regions. The Polar Code includes mandatory measures covering safety (part I-A) and pollution prevention (Part II-A) and recommendatory provisions for both safety and



CHAMBER OF SHIPPING OF AMERICA

pollution prevention (parts I-B and II-B, respectively). The chapters in the Polar Code set out goals and functional requirements including issues related to ship structure, stability and subdivision, watertight and weathertight integrity, machinery installations, operational safety, fire safety/protection, life-saving appliances and arrangements, safety of navigation, communications, voyage planning, manning and training, prevention of oil and noxious liquid substance pollution, prevention of pollution by sewage, and prevention of pollution by discharge of garbage. The Polar Code also includes new manning and training requirements which are now mandatory under the Standards of Training, Certification and Watchkeeping (STCW) Convention and Code effective 1 July 2018 and include requirements for basic training (Master, Chief Mate and officers in charge of a navigational watch) and advanced training (Master, Chief Mate).

The Polar Code applies to vessels which operate in polar waters and are required to be certified in accordance with the SOLAS Convention (Part I safety and manning/training requirements) and/or the MARPOL Convention (Part II). For non-SOLAS vessels required to hold a MARPOL certification, only the provisions of Part II apply. New ships built on or after 1 January 2017 must be compliant with the safety provisions at the time of delivery while existing ships (built before 1 January 2017) must comply with the safety provisions by their first intermediate or renewal survey after 1 January 2018. As noted above the manning and training requirements apply to new and existing ships on 1 July 2018. The environmental protection requirements are applicable to both new and existing vessels on/after 1 January 2017. Compliance with the Polar Code is documented through the issuance of a Polar Ship Certificate and requires the preparation of a ship-specific Polar Operations Manual.

US Flag Operations in the Arctic

As noted in my opening comments, CSA has several members that operate in Arctic waters. For example, Crowley Maritime Corporation has extensive experience in ice management and vessel operations in the Arctic, supporting commercial and government services and goals. Starting in the mid-1950s with the first operations in the Arctic by commercial tug and barge service, Crowley began supplying the Distant Early Warning (DEW) Line radar installations for the US Air Force in the Aleutians and across the northern coast of Canada. In 1968, Crowley began providing services in the Arctic through its sealifts into Prudhoe Bay as well as petroleum transportation for the re-supply of remote villages, other commercial entities and government facilities. Today, Crowley's operating areas include the entire Arctic coast of the US, including sounds, bays and rivers and most recently has expanded to serve the Canadian Arctic. Crowley has also successfully managed projects in Prudhoe Bay, Sakhalin, Coronation Gulf of Canada and the Barents Sea. With a storage capacity of more than 75 million gallons, Crowley is one of the



CHAMBER OF SHIPPING OF AMERICA

unquestionable leaders in the Alaska fuel industry providing transportation, distribution and sales of petroleum products to more than 280 communities across the state, including many in the Alaskan Arctic. Crowley also supports the energy industry on the North Slope with summer tug-and-barge sealifts of large production modules and other essential marine transportation services.

As indicated by the examples above, Crowley offers a full range of services including project management, heavy lift barge transportation, ocean towing, engineering, liquefied natural gas (LNG) services, naval architecture, vessel design and construction management, project concept studies and emergency response services.

Crowley operates seven US flag tugs and ten US flag barges that provide seasonal deliveries to the region that are paramount to the viability and quality of life for the indigenous populations living in the remote villages of the Alaskan Arctic. These vessels utilize ultra-low sulfur diesel fuel and typically stop in Port Clarence to change from deep sea towing gear to shallow draft towing gear to avoid impacting the Arctic sea bottom. Crowley also utilizes shallow draft assist vessels to manage barge operations in the shallow waters of the region to further minimize its operational footprint in the Arctic. Safe and environmentally responsible operation is the fundamental basis of Crowley's operating philosophy and is reflected in its vessel design, maintenance and crew training requirements, use of ice monitoring to determine safe navigational routes and avoid wind driven ice which can entrap equipment, and its collaboration with the US Fish and Wildlife Service to minimize the impact of its operations on identified endangered species which includes the use of marine observers and adherence to marine mammal avoidance areas.

Infrastructure Funding

As noted above, safe and environmentally responsible operations require that attention be paid to infrastructure needs including development and/or enhancement of navigation and communication systems, aids to navigation, search and rescue capability, land-based systems to enable bunkering and waste disposal, emergency response needs and icebreaking capability. While all require funding likely from a combination of public and private sources, in particular, I would bring your attention to the current status of the US Coast Guard's icebreaking capability and the urgent need for additional funding to meet the needs of both the US Arctic waters as well as the Great Lakes. Enhancement of the US icebreaking capability will benefit the US economy and the efficiencies of the marine transportation system by maximizing the operational seasons in both the Arctic and Great Lakes. The industry fully supports and is appreciative of provisions contained in the recently passed US Coast Guard Authorization Act of 2018 addressing these critical resources.



CHAMBER OF SHIPPING OF AMERICA

Conclusion

There is no doubt that the changing and ever challenging landscape of the Arctic and Arctic shipping requires a realistic and pragmatic assessment of the maritime transportation needs at a global level and at the US level relative to transportation needs in the US Arctic. The shipping industry will meet that challenge in a safe, environmentally responsible and efficient manner taking into account a quote from educator and author William Arthur Ward who commented that “The pessimist complains about the wind; the optimist expects it to change; the realist adjusts the sails”.

Thank you for the opportunity to testify at this hearing. We would be happy to answer any questions. **[END TESTIMONY]**

Release of Guidelines on Cyber Security Onboard Ships ver 3

In early December, our working group released the third edition of the industry cyber risk management guidelines, *Guidelines on Cyber Security Onboard Ships*. This latest version addresses the requirement to incorporate cyber risks in the ship's safety management system (SMS); reflects deeper experience with risk assessments of operational technology (OT) with navigational systems and engine controls; and provides more guidance for dealing with the cyber risks to the ship arising from other parties in the supply chain. In particular, the SMS annex is very helpful providing measures for companies to consider when incorporating cyber risk management in their SMS.

Link to Guidelines: [2018 Guidelines on Cyber Security Onboard Ships Version 3](#)

We have worked on these guidelines since our working group drafted the original guidelines and the they have improved greatly. If you have any questions, please contact me.

Industry Meeting with US Coast Guard On Ballast Water Implementation Issues

In mid-December, the industry hosted a meeting with the US Coast Guard to discuss continuing implementation issues associated with the ballast water regulations and in particular the availability of extensions for just cause. The meeting was co-hosted by Blank Rome, Choice Ballast Solutions and CSA. The purpose of the meeting was to present case specific examples of implementation issues including extension requests by shipowners who were well represented by Anglo-Eastern, APL, International Seaways, IRI, Keystone



CHAMBER OF SHIPPING OF AMERICA

Shipping, Moran Towing, Overseas Shipping Group and Scorpio Group. The Coast delegation was led by RADM John Nadeau, Jeff Lantz and the entire Coast Guard team overseeing ballast water management implementation and vessel compliance. Key topics of discussion included the impact of drydock slippages on implementation dates, the overall extension application and approval process and port state control action consistency across the COTP zones. The discussion was very productive and allowed the USCG to better understand the impacts of current policy on these specific issues.

As most are aware, the process of receiving extensions is justifiably getting more difficult given the ever increasing number of systems which have received USCG type approval. Extension requests must now include sufficient detail to show the USCG that all efforts are being made to comply with the requirements including details on discussions with equipment manufacturers, drydocking schedules and pre-planning steps necessary to ensure a safe and operable installation of a new ballast water treatment system in a timely manner. USCG will continue to review these extension requests in fair and timely manner but has made it very clear that they will be reviewed on a case by case basis with due regard for the completeness of the extension request relative to the needed details noted above. Failure to provide the necessary detail will most certainly result in a denial of the request. Shipowners engaged in the extension process are urged to communicate with USCG on their specific requests in order to provide USCG with any missing information that, when provided, may result in a successful outcome.

Request for Participation in Survey to Assess the Extent to Which Shipowners Are Incorporating Noise Reduction Measures in Ship Design and Implementation of Operational Measures to Reduce Underwater Noise

CSA has agreed to serve on a steering committee which as its first task is to conduct a survey of approximately 30 shipowners on their use (or lack thereof) of the IMO Reduction of Underwater Noise Guidelines and how or if, new ship designs are taking into account various noise reduction strategies. The following email was sent to our international colleagues (ICS, BIMCO, CLIA, INTERTANKO, WORLD SHIPPING COUNCIL) in mid-December requesting shipowner participation with all participants requested to provide contact information (name, company, email, phone) to kmetcalf@knowships.org no later than January 9, 2019. Text of email with additional information about the process copied in full below:

[BEGIN QUOTE] This email is to request your organization's assistance in providing ship owners and operators information to a research program in which I am involved about underwater noise from commercial ships. I am



CHAMBER OF SHIPPING OF AMERICA

requesting your assistance in identifying contacts in a total of approximately 30 shipping companies (no more than 10 from each association copied here) which would agree to be interviewed over the month of January 2019.

As you know, the subject of underwater noise from commercial shipping is once again the subject of discussions at IMO with recent submissions by Canada to MEPC and the upcoming underwater noise workshop at IMO and hosted by the Government of Canada which is scheduled for 30 January to 1 February 2019. Copies of the agenda and invitation to that workshop are attached to this email.

In order to better inform future discussions on this subject matter this survey is being conducted with the goal of gaining insight into the extent of efforts being made to reduce underwater vessel noise, barriers that exist to such changes, and the sources of information the industry uses to guide decisions on this issue.

The research is guided by a steering committee comprised of the Chamber of Shipping of America, World Wildlife Fund-Canada, the World Maritime University (WMU) of the International Maritime Organization (IMO) and Transport Canada. As part of my role on this steering committee, I have agreed to serve as the outreach coordinator to the industry in assisting the collection of information from ship owners and operators.

We are looking for individuals from shipping companies willing to participate in a 30-minute one-on-one interview conducted by telephone in English. Environics Research, a leading Canadian market research company, has been commissioned to conduct the interviews.

Specifically, I would like to ask you to contact a representative number of your members (no more than 10 per organization) who will agree to participate in this survey and then provide me a list of contacts (name, phone, email) from your member shipping companies. Upon receipt of that list, I will then forward the information to Environics Research. This is an opportunity for the shipping industry to provide valuable input not only to this research survey, but also to the larger discussion which is and will continue to occur at IMO.

As regards the conduct of the survey and the use of the information collected from these interviews, please note the following points:

- Participation is completely voluntary, and responses will be kept strictly confidential and will not be attributed to the individual nor their organization. The results of the interviews will be reported to the steering committee in aggregate form only.



CHAMBER OF SHIPPING OF AMERICA

- The information collected in the interviews will be used to guide and enhance actions to reduce underwater noise from commercial shipping, including efforts to improve the content and uptake of the *IMO Guidelines for the Reduction of Underwater Noise from Commercial Shipping to Address Adverse Impacts on Marine Life*.
- As an appreciation for your participation and in a commitment to transparency, we will provide you and all participants with a summary of the results from this research project upon its completion.

If you have any questions, please don't hesitate to contact me at kmetcalf@knowships.org or (+1) 202-775-4399 or the researcher, Sarah Robertson, Vice President, Public Affairs at Environics Research at sarah.roberton@environics.ca or (+1) 613-793-2229.

On behalf of the Steering Committee, I thank you very much for considering this request and I look forward to hearing from you. **[END QUOTE]**

CSA Meeting Schedule for 2019

** Please save these dates on your calendars. For more see the CSA website <http://www.knowships.org/news.php> **

March 5, 2019 Maritime Policy and Operations Committee (Houston)

March 6, 2019 Board of Directors Meeting (Houston)

June 4 or 5, 2019 Board of Directors Meeting (New Orleans)

June 4 or 5, 2019 Annual Safety Awards Luncheon (New Orleans)

Nov 13, 2019 Maritime Policy and Operations Committee (DC)

Nov 13, 2019 Annual Environmental Awards Dinner (DC)

Nov 14, 2019 Board of Directors Meeting (DC)