

Maritime Exchange for the Delaware River and Bay
Maritime Operations Committee
May 6, 2010

Minutes

Tom Johnston, Committee Chairman welcomed the group, thanked the government agencies and members for their attendance, and led introductions. The list of attendees is attached.

Customs & Border Protection (CBP)

Written Confirmation of Security Plans - The committee had previously requested that CBP provide written confirmation of security plan requirements. Mr. Moriarty confirmed that CBP is providing written letters detailing the security plan requirements; these will be sent by fax or email, though anyone desiring a signed copy may pick one up at Vessel Central.

Armed Guard Discussion - The committee spoke at length regarding the CBP requirement for armed guards, particularly on tankers at refining facilities. Following is a summary of the key discussion points.

Mr. Moriarty of CBP reiterated that CBP will work with the trade community in developing possible alternatives to armed security; but these discussions must take place in advance and not when CBP has ordered armed security for a vessel. The discussions will need to provide appropriate mitigation of risk as determined by CBP and/or USCG. This should be worked through Mr. Nardella. And it may take several iterations before a mutually agreeable solution could be identified. It is important that the agent provide specific rationale why armed guard requirements cannot be met. The committee asked whether CBP could be more communicative regarding the level of risk.

CBP does not agree that appropriately trained and vetted security guards pose any greater risk to facility safety than do non-armed security. CBP looks forward to discussions on the exact risk/threat associated with the use of armed personnel on tankers.

Facility/Vessel Security Plans which disallow firearms will not supersede CBP requirements.

Each of the states has different requirements (as do some flag states) as to who may be used as security guards and what training those individuals might have. Further, on a foreign-flagged ship, local law enforcement may not board in their capacity as local law enforcement (ref discussion that many guards are off-duty police officers). As off-duty armed security, CBP encourages the use of local law enforcement.

The committee expressed concern about the "rules of engagement" (e.g., are guards expected to use deadly force?). CBP/CG responded that guards should follow the procedures/training as required to obtain a permit to carry weapons. The committee is concerned as there is no requirement that these individuals are trained in/around/aboard vessels or refineries.

There are also concerns regarding liability in situations where guards may discharge their weapons.

In response to a question regarding how similar risks at a facility would be addressed, Coast Guard indicated that if there were a similar type of threat at a facility, there would not be a requirement to post armed guards. Instead CG would work with the facility to implement appropriate portions of the security plan.

Air Freight AWB Processing – Mr. Johnston reported that recently a trucker picking up spare parts for a vessel was told by CBP that he would have to return four hours later to pick up the clearance document. Mr. Moriarty responded that CBP has no such policy for inbound cargo, however spares being loaded onto a ship are considered as being exported, and there is a regulation for outbound cargoes that does require four hours. The reason for a four-hour wait is that the cargo for Immediate Exportation entry should be available to CBP for examination.
Action Item: CBP to forward additional info on the export regulation.

48 Hour Advance Notice of Arrival – Mr. Johnston reported that in addition to filing the CBP form 3171 and filing an electronic Notice of Arrival, local CBP requires a report of vessel arrival 48 hours in advance of the vessel arrival to schedule a boarding or for an appointment for entrance/clearance. This presents a problem if the vessel needs entrance earlier than previously expected. Mr. Nardella reported that CBP plans its work load 48 hours in advance, and the requirement is dictated by regulation. Mr. Moriarty said that the Port Director does have some flexibility, and CBP is always willing to try to accommodate schedule shifts when possible. The report, which may be faxed or e-mailed, is to be submitted at least 48 hours in advance, than changes can be made if necessary.

Vessel Stamp on CBP Forms – Mr. Johnston reported that CBP has recently been rejecting unstamped 1300 forms. CBP indicated that if the signature on the form is questionable, they will require the master's stamp and clarified that the wording on the form "Authorized Agent" does not indicate the vessel agent but the authorized officer on the ship per 19 USC 4.3.
Action Item: CBP will check the rigidity of the required stamp, if there is no signature problem.

Agents/CBP Boarding at Big Stone - Agents are compelled board vessels at Big Stone to collect documents to be delivered to CBP. In-stream boardings are an equally serious risk for others, and an agent was seriously injured recently. Agents requested that CBP consider other mechanisms to review documents (e.g., electronic copies) prior to vessel's arrival at dock. Original copies would be provided at that time.
Action Item: Mr. Moriarty will take this item into consideration with CBP internally and follow-up with a decision.

Electronic I-418 Update – Ms. Humber reported some progress on the pilot program which would eliminate the paper I418 form. The pilot program concept of operations has been developed, and the CBP Office of Information Technology is reviewing. The pilot phase is scheduled for June/July and will run for six months (subject to change). Three carriers and three ports will participate in the pilot, and Philadelphia will be one of the ports. Mr. Kelso asked if

the electronic form will have a crew visa status field. Ms. Himber replied that not for now. There is a place on the Notice of Arrival for free form text. There are three fields not on the I418, but they can be added when modifications are made after the pilot program.

10+2 Update – April 20 ended the phased-in enforcement for the Importer Security Filing (ISF) 10+2 requirements. Effective May 1, enforcement kicked in. CBP will be issuing manifest holds for not filing the ISF or for non-compliance.

Smuggling – Over the last six months, CBP has seen an increase in alien, stow away and drug smuggling. There has been an increase in crew members involved in these activities. As a result, members may see increased CBP officers in the area.

Coast Guard

Gulf Oil Spill – Capt. Austin updated the group on activities related to the oil spill in the Gulf of Mexico. The Sector has been tapped to help, Mr. Cooper is down there now, and others may follow if needed.

She also reminded the group of the requirements regarding Oil Spill Response Organizations (OSRO) and ensuring that sufficient resources remain in the region in the event of an incident. With all the activity in the Gulf, if a spill happens somewhere else, the Coast Guard will be aggressive.

Coast Guard Area Contingency Plan – Capt. Austin informed the group that the Coast Guard is monitoring the spill and in the extremely unlikely event the oil should somehow make its way the east coast, they will respond appropriately and keep the port community informed.

MTSRU Status – Capt. Austin also indicated that she expected that a replacement for the Maritime Transportation System Recovery Unit would be identified in the very near future.

COTP Order – Mr. Blanchard inquired about the COTP order for a vessel security plan in advance of the vessel arrival.

Action Item: Mr. Antonellis responded that he would clear up what the Coast Guard expectations are.

Mr. Johnston introduced CBP Port Director, Al Martocci who was detained and arrived prior to adjournment.

The meeting was adjourned at 1130.

Attendees

Atlantic Commercial	Jim McFarland
Banacol/Manatee	Jennifer Henry
Beta Marine	Bill Smith
Center for Disease Control	Julie Sinclair
Citrosuco	Doug Nicol
Coast to Coast Int	Luigi Adamo
Delaware Valley Marine	Jean Cureton
GAC RUR	Scott Miller
	Kubilay Ulucan
Greenwich Terminal	Bill McGinnis
Inchcape Shipping	April Hale
	Justin Hubbard
Maritime Exchange	Lisa Himber
	Darleen Michalak
	Paul Myhre
McRoberts Maritime Security	Anthony Pecoriello
Moran Shipping	Jim Bowser
	Tom Sullivan
Norton Lilly	Tom Johnston
	Mark Kelso
NuStar Energy	Tom Blanchard
Sunoco	Susan Klein
	George Murphy
Terminal Shipping	Rob Herb
USCG	Michael Antonellis
	Meredith Austin
US CBP	Bruce Albright
	Al Martocci
	Ed Moriarty
	Paul Nardella
Wilhelmsen Ships Service	Steve Nutter