

**Maritime Exchange for the Delaware River and Bay**  
Maritime Operations Committee  
October 8, 2009

**Minutes**

Tom Johnston, Committee Chairman welcomed the group and led introductions. The list of attendees is attached.

Tom Johnston also introduced Captain of the Port Meredith Austin. Capt. Austin expressed appreciation for the hospitality shown to her since her arrival four months ago. She indicated she has an open door policy and extended an invitation to for committee members to contact her, Enforcement Chief Brad Kelly and Chief of Prevention Michael Antonellis with any issues.

**Customs & Border Protection (CBP)**

**Noxious Weeds Regulations** – Hal Fingerman addressed the noxious weed epidemic which is originating from New Zealand, South and Central America, and Australia. The issue has surfaced at Packer Avenue, Broadway and the Port of Wilmington. When weed seeds are detected, CBP may send a sample to the US Department of Agriculture (USDA), and the agency will send an Emergency Action Notification (EAN) to the importer outlining the action to be taken. Unfortunately, there is no treatment available; the only option is to safeguard the container and re-export it (or in worst case, to destroy it). To safeguard the container, the reefer unit must be covered with plastic that is secured after the unit has been shut down to prevent seeds from blowing out. CBP may allow manipulation of the cargo if the problem is container specific and not affecting the cargo. If stripping the cargo is an option, CBP form 3499 must be submitted for allowance.

Bill McGinnis requested something in writing that contains the regulations and the policy/procedures to be followed. Mr. Fingerman directed the group to the Exchange web site for the Proposed Rule which contains the regulations.

**Action Item:** Ed Moriarty will forward the policy if it is available on CBP's web site.

Kelly Rigg questioned the time that elapses from the finding to the examination of the suspected pest. Sometimes it is over a week before the importer receives the EAN and the container may go into demurrage. Mr. Fingerman indicated they have no control over when the EAN is sent to the importer and this should be discussed with the USDA. CBP uses FedEx for shipments to the USDA. If CBP determines the seed is not affecting the cargo, they will allow stripping of the cargo.

The group agreed that ultimately the problem needs to be solved at its origin. We need to work together to communicate with the load ports.

**Action Item:** Maritime Exchange to coordinate with interested parties.

Darleen Michalak requested clarification on how the Automated Manifest System (AMS) will be updated if the cargo is released, but the container is held. Currently there is no mechanism within AMS to allow for this, though there may be an opportunity to utilize a comment section, but Bill Fagan expressed concern as these are not necessarily available to brokers. Mr. Fingerman will follow up with additional information.

Ultimately an entry to export the container will be required to close the AMS bill of lading.

**Action Item:** Hal Fingerman to forward instructions for AMS release action.

**Electronic I-418 Update** – Lisa Hember reported that Cheryl Peters, Commercial Sea Program Manager with Admissibility and Passenger Program has made significant progress in Washington trying to eliminate the paper I418 form. Her office has reviewed both the legal and regulatory authorities and has a better understanding of how an electronic program might be structured. In addition, she has engaged with CBP's Office of Information Technology (OIT) and has gotten an initial expression of support. Any work on this project would be done outside of the Automated Commercial Environment (ACE) umbrella, which means it would not be placed in a queue after other projects currently on the ACE drawing board.

At a meeting on this subject in late September, Ms. Peters agreed that CBP is ready to start outlining a potential electronic 418 pilot program. The key is to ensure we automate a process, not a form.

Ms. Hember requested volunteers to develop parameters for a pilot program. Tom Johnston, Rob Herb and Jennifer Henry will participate.

**Crew Changes at Big Stone Beach** – Lisa Hember reported that crew change issues at Big Stone Beach had been previously addressed by the Area Maritime Security Committee, which provided a recommendation on circumstances under which CBP should allow crew changes at the anchorage, particularly given certain safety concerns. The Committee has followed up with CBP, who signed off on a letter which contains CBP's procedures and the case-by-case basis policy. Ms. Hember indicated that the letter may need some additional clarifications. Mr. Martocci responded that CBP and Vessel Central are available to discuss any further clarifications.

**Action Item:** Lisa Hember to follow up with CBP.

**Crew on Vessels in Lay Berth** – Rev. Von Dreele and Tom Johnston expressed concerns about the fact that there are increasing incidences of crew members who must remain in port beyond their allowed 29 days but CBP is denying extensions. Lisa Hember noted that this topic had also been raised at the recent meeting of the National Association of Maritime Organizations and has been an issue elsewhere as well. In the most recent instance, a vessel has been in lay berth since July; after 29 days, the crew was detained on board. They requested shore leave two times and were denied both times. All crew has proper credentials.

**Action Items:** Ed Moriarty will look at the risks, visas, etc. and evaluate again. Committee members to provide Lisa Hember with additional examples for discussion at national level.

The Coast Guard (CG) works actively to give shore leave. Each facility has its own security plan as far as escorts. CG requested to let them know if there are any shore leave issues with a facility.

**Agent Fined for Late AMS Transmission** – Tom Johnston reported his agent company was fined for filing a late manifest in AMS. The fine is against the agent's bond, where it should have been issued against the bonded ocean carrier. CBP indicated that the penalties are assessed against whichever bond is submitted with Form 3171 (entrance and clearance/permission to unlade); the committee members unanimously agreed that previous guidance was clear that the agent is a) not authorized to transmit manifest under its own bond and b) therefore cannot be liable for violations.

**Action Item:** CBP will review the matter and follow up.

### **Coast Guard**

**Towing Vessel Bridging Program (TVBP)** – Capt. Austin explained the TVBP as a voluntary partnership with the CG and the towing vessel operator/owner for the CG to perform towing vessel inspections prior to the publication of a rulemaking. This will allow the towing vessel operator/owner to become familiar with the inspections and help the CG work out any bugs. The Point of Contact is CWO Oscar Burns and he can be reached at 215-271-4873.

**Note:** After the meeting, the Exchange distributed Marine Safety Information Bulletin 19-09 on the program.

**Ballast Water Treatment Standard Update** – The CG published a Proposed Rule with standards for living organisms in ship ballast water. This would apply to both U.S. and non-U.S. flag vessels. The standards contained in this proposal are in two parts. The phase one standard correlates with the standard and implementation schedule contained in the IMO Ballast Water Convention. The phase two standard represents an exponentially more stringent standard than the phase one standard effective at the first drydocking of a vessel after January 1, 2016 or 5 years after a phase one compliant system has been installed.

Although there are no specific actions carriers need to take at this point, they do need to start thinking about treatment systems that might be appropriate for their ships.

Ms. Hember invited anyone who requires additional information to let her know. CDR Michael Antonellis encouraged members to take advantage of the comment period, which ends December 4 (recently extended from November 27). Comments are addressed and do affect the regulations. Two meetings were held, one in DC on October 8 and one in NY on October 29.

### **Transportation Worker Identification Credential (TWIC)**

**Testing Hand Held TWIC Readers** – CDR Antonellis informed the group that the CG has received some hand-held readers which they will be using at various facilities. This is a pilot stage for testing purposes. The group asked if the readers require PINs.

**Action Item:** Michael Antonellis will follow-up to see if readers require PINs.

**Note:** CDR Antonellis has since provided the following:

*In short, yes PINs are required. However, the biometric readers have three modes of operation. They can simply read the digital signature on the card, another mode of operation is to read the digital signature AND have the TWIC cardholder enter a PIN, which is assigned at the TWIC enrollment center, and finally reading the biometric fingerprint in conjunction with the TWIC.*

*Depending on the mode of operation for that particular inspection, the TWIC cardholder may or may not be required to enter a PIN. However, it would behoove all cardholders to memorize their PINs since after approximately 10 tries of entering a PIN, the reader will lock the card and the cardholder must return to an enrollment center to reset it.*

*We intend to test in all modes.*

**TWIC Eligible VISA Types** – Lisa Hember reported that she has been working with Intertanko and the Chamber of Shipping of the U.S. in an effort to get the B1/B2 VISA added to the list of TWIC-eligible VISA types. The group responded that the C-1/D VISA should be included also.

**Action Item:** Committee members should send information to Lisa Hember regarding need to expand TWIC-eligible VISA list to include B1/B2 VISAs. In order to engage the support of the Congressional delegation, please provide information on the potential TWIC-holders (e.g., what functions do they perform, how long are they in the U.S., etc.)

**Business Recovery/Continuity Planning** – Andy Bertolazzi and Andy Mazzeo discussed the ongoing work with the AMSC to help the business community better prepare for business recovery in the aftermath of an incident. A DRAFT Business Continuity Planning Template was distributed to the group with a request for suggestions and considerations for a set of guidelines. They would like to get perspectives on different organizations and get feedback on the Continuity Plan. Capt. Austin suggested one-on-one meetings with organizations might better protect confidentiality. The planning information is complementary to the USCG, assuming the first responders have already accomplished their tasks. The main question is, “what can you plan ahead of time to get back on your feet quickly.”

The meeting was adjourned at 1130.

## Attendees

Banacol/Manatee	Jennifer Henry
	Larry Jones
Barthco	John Ercolani
	Bill Fagan
Carson M. Simon	Terry Rodgers
Enterra Solutions	Andrew Bertolazzi
GAC RUR	Kubilay Ulucan
Greenwich Terminal	Mike McCaffrey
	Bill McGinnis
Hamburg Sud	John DeScioli
Maersk Line	Cyndi Aponik
Maritime Exchange	Lisa Himber
	Darleen Michalak
	Dennis Rochford
Norton Lilly	Tom Johnston
Seamen's Church	Jim Von Dreele
Terminal Shipping	Rob Herb
USCG	Michael Antonellis
	Meredith Austin
	Brad Kelly
	Bob Post
US CBP	Hal Fingerman
	Al Martocci
	Ed Moriarty
T. Parker Host	Charlie Reardon
Tetra Tech	Andrew Mazzeo
Vine Street Imports	Kelly Rigg
Western Fumigation	Miriam Borja
Wilhelmsen Ships Service	Steve Nutter