interval, MBTA should devote attention to fleet management to ensure that sufficient units are equipped with ACSES by the time this latest and last extension expires on April 5, 2002. Furthermore, MBTA should do its upmost to maximize the use of ACSES equipped units on ACSES territory, ensuring that ACSES equipped locomotives and cab cars are utilized to their full potential in ACSES service. Other than the extension granted above, the temporary operating protocols specified in Notice No. 11 (66 FR 34512, June 28, 2001) remain in effect without change.

Implementation of Data Radio Systems

Finally, FRA notes that, with the inclusion of this amendment, it has granted six requests for relief from the Order's original timetable. The Order requires data radio systems to be installed within one year of ACSES installation. In an August 28, 2001 letter, Amtrak requested that FRA suspend the Order's requirement to enforce temporary speed restrictions with temporary transponders until Amtrak fully implements data radio enforcement. FRA's October 31, 2001 response asked Amtrak to justify more fully this request to suspend positive protection for roadway workers. While Amtrak has yet to respond to the FRA letter, this latest request for relief highlights that Amtrak is in arrears in its commitment to install data radios. FRA is aware of the financial issues facing Amtrak and other parties to this Order, but the parties must commit fully to the extended deadlines for completion of ACSES design and implementation.

Accordingly, for the reasons stated in the preamble, the Final Order of Particular Applicability published at 63 FR 39343, July 22, 1998 (Order) is amended as follows:

1. The authority for the Order continues to read as follows: 49 U.S.C. 20103, 20107, 20501–20505 (1994); and 49 CFR 1.49(f), (g), and (m).

2. Paragraph 11 is amended as follows:

11. *Massachusetts Bay Transit Authority (MBTA) Temporary Operating Protocols.*

(a) Effective upon February 12, 2002 until April 5, 2002, Amtrak must adhere to the following procedures if it becomes necessary to dispatch an MBTA train from its initial terminal with inoperative onboard ACSES equipment:

* * * * *

Issued in Washington, DC, on January 31, 2002.

Allan Rutter,

Federal Railroad Administrator.

[FR Doc. 02–3390 Filed 2–11–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No: MARAD–2001–10903]

Commercial War Risk Hull and Protection and Indemnity Insurance on Title XI Mortgaged Vessels Operated Exclusively on the Inland Rivers and Intercoastal Waterways of the United States and on the Great Lakes

AGENCY: Maritime Administration, Transportation.

ACTION: Final policy review.

FOR FURTHER INFORMATION CONTACT: Edmond J. Fitzgerald, U.S. Department of Transportation, Maritime Administration, Director, Office of Insurance and Shipping Analysis, Telephone (202) 366–2400, Room 8117, 400 Seventh Street, SW., Washington, DC 20590.

SUMMARY: The Maritime Administration (MARAD) has for the time being determined that it will continue to follow its current long-standing policy that waives the Security Agreement requirement for commercial war risk hull and protection and indemnity insurance on Title XI mortgaged vessels which operate exclusively on the inland rivers and intercoastal waterways of the United States and on the Great Lakes. MARAD, however, retains the option to rescind or revise the current waiver policy and to impose the full war risk cover on all Title XI vessels in the future, if MARAD determines that circumstances warrant.

SUPPLEMENTARY INFORMATION: MARAD published a Notice in the **Federal Register** on October 30, 2001, (66 FR 54799) Docket No. MARAD 2001–10903, with respect to the waivers of commercial war risk insurance granted operators of Title XI mortgaged vessels operated exclusively on the U.S. inland waters/Great Lakes, requesting comments by November 13, 2001. The Notice stated that some experts were predicting a possible marine threat, either as a means or as a target or both, if another terrorist attack were to occur against the United States. In light of this and the September 11th events, the Notice stated that MARAD believed it should revisit the existing inland/Great Lakes war risk insurance waiver policy and request public comment on whether MARAD should change its current waiver policy. It was noted that MARAD has the authority to rescind or revise the existing waiver policy and to impose the full war risk cover on all Title XI vessels, if MARAD determines that it is now necessary.

The Notice indicated that MARAD currently waives the Security Agreement requirement for commercial war risk hull and protection and indemnity insurance on Title XI mortgaged vessels, which are operated exclusively on the inland rivers and intercoastal waterways of the United States and on the Great Lakes. This policy was approved by the Assistant Secretary of Commerce for Maritime Affairs on June 30, 1971, and has remained in effect ever since. Most Title XI companies operating exclusively inland or on the Great Lakes have taken advantage of this waiver. MARAD estimates that approximately 20 companies with over 500 vessels (including a large number of inland barges) are not insured for war risk.

The Notice stated that the standard war risk insurance policy covers a number of non-marine peril risks, including warlike operations, strikes, civil unrest and acts of terrorism. The Notice pointed out that the basic underlying assumption for the war risk waiver for inland water/Great Lakes was that the threat of attack within the continental 48 states or Great Lakes was very slight. The Notice stated that the events of September 11, 2001, called this basic assumption into question.

The Notice concluded that as a consequence, MARAD may begin to require that some or all of the inland Title XI vessels have war risk cover, although MARAD may not require war risk cover for all inland Title XI vessels because significant groups or fleets of inland barges are widely dispersed on the inland waters at any point in time. The Notice stated that this wide distribution limits our inland/Great Lakes Title XI exposure; therefore, the risk of significant loss from any one event or target may be relatively small.

Timely comments to the Notice of October 30, 2001, were received by November 13, 2001, from American Steamship Company; Lake Carriers' Association; and Canal Barge Company, Inc. By letter dated December 13, 2001, Alter Barge Line, Inc. also submitted comments. All commenters were opposed to any change in MARAD's current waiver policy for commercial war risk insurance on Title XI mortgaged vessels operated on the inland waterways/Great Lakes. These comments are summarized below:

American Steamship Company (ASC)

ASC recommends that the current waiver policy continue without any modification or changes. Although ASC recognizes that the events of September 11th would cause prudent underwriters to review policies, it believes there is no appreciable increase in the risk to Great Lakes shipping to warrant the cancellation or modification of the current waiver policy. Great Lakes vessels are relatively slower moving vessels, dispersed throughout the Great Lakes region, carrying relatively low value non-strategic cargoes such as iron ore and aggregate to U.S. and Canadian ports. ASC states that it has carefully considered the current risks to vessels operating on the Great Lakes, that there has been no significant change to these risks for the reasons cited above, and no change in the current waiver policy is necessary.

Lakes Carriers' Association (LCA)

LCA represents 12 American corporations operating 56 U.S.-flag vessels exclusively on the Great Lakes. LCA urges MARAD to not require war risk insurance for U.S.-flag lakers with Title XI mortgages. LCA states that while the concept of war risk insurance is certainly valid for vessels that sail in harm's way, the Great Lakes are the sole jurisdiction of two great democracies, the United States and Canada, and are well protected by each nation's Coast Guard. With only one entrance from the oceans, the U.S. and Canadian Coast Guards can inspect all third-flag vessels, so no attacker disguised as a freighter could sneak about the Lakes.

LCA states that the events of September 11th and the attack on the USS COLE have made us aware that the unthinkable is not always so unthinkable, but again, given that lakers carry dry-bulk cargoes, even a suicide attack from a small boat or airplane would not produce a catastrophic explosion and total loss of the vessel. According to LCA, the likelihood of a successful attack is slight, but the current economic plight of America's steel industry has extended to U.S.-flag operators on the Great Lakes. The industry is in a life and death struggle and cannot bear one unnecessary expense. LCA concludes its comments by urging MARAD to continue to waive the requirement for war risk insurance on U.S.-flag Title XI lakers.

Canal Barge Company, Inc. (Canal Barge)

Canal Barge strongly requests that MARAD make no changes in its waiver policy for war risk insurance. Canal Barge states that the risks from non-marine perils such as terrorism or civil unrest remains slight today in view of the significantly increased law enforcement and security precautions that have been taken by federal, state, and local agencies and the maritime industry itself. The wide dispersion of barges and other Title XI mortgaged vessels on the inland/Great Lakes waterways limits the risk of significant loss from any one terrorist or similar event. Canal Barge believes that with little or no change in the risk facing Title XI mortgaged vessels on the inland/Great Lakes waterways, there is no demonstrated need to amend the current waiver policy for Title XI mortgaged vessels operated on the inland/Great Lakes waterways.

Alter Barge Line, Inc. (Alter Barge)

Alter Barge strongly urges MARAD not to change its policy regarding war risk insurance. Alter Barge views are based on the following factors. First, as was discussed in the **Federal Register**, barges are widely dispersed. Alter Barges states that it rarely has more than five barges in the same location. Consequently, the loss from any specific terrorist act would not be significant to MARAD or Alter Barges. Second, Alter Barges believes that inland barges do not present an especially attractive target for terrorists. Such vessels are unmanned, relatively small and inexpensive and carry basic, low cost materials. Third, given the current state of the barge market, the imposition of an additional charge for high-cost, war risk insurance would be an unwanted and unnecessary expense. Lastly, the cost of insurance would erode the attractiveness of Title XI financing versus private financing which does not require this type of insurance.

Conclusion

A possible marine threat, either as a means to carry out an attack or a target or both, is a realistic concern in planning for defense against terrorist activity. Recognizing this, there has definitely been a concerted effort to increase security precautions in the maritime area, particularly with respect to port security and inspection of foreign-flag vessels using U.S. ports with special emphasis on ascertaining the types of cargoes transported.

Several commenters note that the dispersion of barges and other Title XI mortgaged vessels on the inland/Great Lakes waterways limits the risk of significant loss from one terrorist attack. Commenters also note that vessels operating on the inland/Great Lakes waters are not particularly rewarding targets considering the ships and low-valued bulk cargoes carried.

Based on the comments received, the types of vessels and fleets of vessels involved in the Title XI programs on the Great Lakes and inland waters, and the security effort already undertaken, MARAD has determined that it will continue to follow the current long-standing policy that waives the Security Agreement requirement for commercial war risk hull and protection and indemnity insurance on Title XI mortgaged vessels which operate exclusively on the inland rivers and intercoastal waterways of the United States and the Great Lakes for the time being. MARAD, however, retains the option to rescind or revise the current waiver policy and to impose the full war risk cover on all Title XI vessels in the future, if MARAD determines that circumstances warrant.

Dated: February 7, 2002.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–3370 Filed 2–11–02; 8:45 am]

BILLING CODE 4910–81–P