



U.S. - Detention of Crew in MARPOL Violations

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When a vessel is detained in a U.S. port on suspicion of a MARPOL violation the U.S. Coast Guard generally require the owner to “retain” crew members who may be material witnesses in the U.S., at the owner’s expense, pending conclusion of the investigation and possible prosecution.

The Coast Guard’s power comes from several sources and includes the authority to grant clearance to a vessel being detained upon the posting of a bond or “*other satisfactory security*”. In this way the Coast Guard typically requires the vessel owner to enter into a Security Agreement whereby, as a condition for the release of the vessel, the owner agrees to:

- post a surety bond
- cooperate with the ongoing criminal investigation and
- maintain the employment of certain crew members considered to be either persons of interest or material witnesses while they are “retained” in the U.S at the owner’s expense pending completion of the investigation and then to repatriate them at the conclusion.

This crew “retention” policy imposes economic burdens on the owner and even more substantial burdens on the individual crew members themselves. It is extremely difficult to avoid a Security Agreement or to seek judicial relief if the period of crew detention is extended, particularly if the owner wishes to challenge the government’s allegations.

In an article written for the Steamship Mutual website, Patrick Cooney of Royston Razor discusses the sources of the Coast Guard’s authority, possible ways to seek relief and some of the tactical and strategic considerations:



www.simsl.com/USCrewDetMARPOL0908.html