



National Association of Waterfront Employers

August 18, 2023

NAWE News

Latest with NAWE

NAWE Members Hold Virtual Meeting to Discuss FMC Commissioner Rebecca Dye's Proposals to Address Supply Chain Bottlenecks – On August 1, FMC Commissioner Rebecca Dye announced three proposals to “increase the performance of the U.S. international ocean freight delivery system by reforming the practices of the international ocean carrier and marine terminal operators (MTOs) in the Ports of Los Angeles and Long Beach and the Port of New York and New Jersey.” Commissioner Dye’s proposals address: 1) Container Return; 2) Early Return Date; and 3) Container Pickup (Notice of Availability). Commissioner Dye cited these three practices as creating “bottlenecks in the U.S. international ocean supply chain that contribute to congestion and unreasonable demurrage and detention charges.” According to the announcement, the proposals outlined in this initiative were developed “based on Commissioner Dye’s years of experience with Nonadjudicatory Fact Finding Investigations, industry leader engagement in Federal Maritime Commission Supply Chain Innovation Teams (Innovation Teams), and the work of the National Shipper Advisory Committee (NSAC) and the Council on Port Performance of the Port of New York and New Jersey (CPPNY/NJ).” [Click here to view the announcement.](#)

On August 8, NAWE President Robert Murray hosted a meeting with interested members of the association to discuss Commissioner Dye’s proposals and their potential impacts on MTOs and the U.S. maritime supply chain. The meeting was informative and the NAWE Legal and Legislative teams will continue to monitor and report on any further developments on these proposals.

ICYMI: [NAWE President Robert Murray Discusses Dye's Proposals with Journal of Commerce](#)

House Members Send Letter Urging FMC to Follow Congressional Intent Regarding Incentive Principle in OSRA 2022 Rulemaking – On August 17, 2023, U.S. Representatives Jake Auchincloss (D-MA-04) and Brian Babin (R-TX-36) sent a bipartisan letter to Federal Maritime Commission (FMC) Chairman Daniel Maffei urging the Commission to follow the intent of Congress by removing marine terminal operators (MTOs) from the substantive demurrage billing requirements under the proposed rulemaking for the Ocean Shipping Reform Act of 2022 (OSRA-2022), which was enacted into law during the 117th Congress. In the letter, Reps. Auchincloss and Babin express concern that the Commission’s rulemaking should be based on the final version of the OSRA-2022 bill that became law. Specifically, Congressmen Auchincloss and Babin cite that burdensome demurrage billing requirements and other provisions that would have had potentially negative impacts on MTOs and the supply chain were included in the original House and Senate bills, but were removed from the final version of the OSRA-2022 that became law. They state that those provisions should not be part of FMC’s proposed rulemaking for implementation of OSRA-2022. [Click to view letter here.](#)

NAWE Team Participates in Baltimore Propeller Club’s 2023 Crab Feast – On Thursday, August 10th, NAWE Team members—President Robert Murray, Director of Finance & Member Services Heather Banikas, and Director of Marketing and

Communications Colleen Kennedy—participated in the Propeller Club of Baltimore's 2023 Crab Feast. Also present were NAWE Board Chairman Tom Saunders of Ports America and key members of NAWE's Legislative Team, Anthony Bedell and Shannon Duncanson of Becker Poliakoff. [Check out some pictures from the event here!](#)

NAWE Legislative Updates

White House Releases \$40.1 Billion Supplemental Funding Request, Complicating Congress' Ability to Avoid a Government Shutdown – President Biden last Thursday released a \$40.1 billion emergency supplemental funding request to Congress that would provide short-term funds for a number of priorities, including Ukraine and other foreign assistance, disaster relief and border security. Specifically, the request would designate \$24.1 billion for Ukraine and related international emergencies, including \$13.1 billion for military aid, largely for equipment to be sent to Kyiv, and \$8.5 billion for the State Department and the U.S. Agency for International Development (USAID) to provide economic and humanitarian assistance. Of the funds allocated for the State Department, \$200 million would be used to aid African countries besieged by Russia's Wagner group mercenaries and other "Russian Malign Actors," \$1 billion would be provided to help strengthen strategic partnerships in developing countries, and \$1 billion would help allies purchase U.S. defense equipment through the foreign military financing program. The administration's request would also address a projected \$4.3 billion budget shortfall in the Federal Emergency Management Agency's (FEMA's) disaster relief fund by providing a \$12 billion infusion of cash that would cover expenses over the next several months. Additionally, the package includes nearly \$4 billion for border security and migration mitigation initiatives, including \$2.65 billion for the Department of Homeland Security's border management and migrant assistance efforts, with \$416 million of that sum to stop the flow of fentanyl over the border.

Although the President's request includes funding that may serve as sweeteners for legislators opposed to additional spending measures--specifically the emergency disaster relief funding, which members of both parties have requested, and additional border security funding, which is supported by House conservatives--the request will face stiff opposition in the House and complicate bicameral efforts to avoid a government shutdown. Specifically, the new round of funding faces resistance from the House conservatives who were already attempting to scale back fiscal year 2024 discretionary spending levels to fiscal year 2022 levels. Many of those lawmakers also remain furious over the terms of the debt-ceiling agreement negotiated between House Speaker Kevin McCarthy (R-CA-20) and President Joe Biden in May and see the funding package as an end-around to the spending caps set forth in that agreement. Other House Republicans are fundamentally opposed to assisting Ukraine's war effort. Last month, 70 Republicans voted for a defeated amendment to the National Defense Authorization Act (NDAA) proposed by Rep. Matt Gaetz (R-FL-01) that would have prohibited any more U.S. assistance to Ukraine, while 89 Republicans voted for a defeated amendment by Rep. Marjorie Taylor Greene (R-GA-14) to eliminate \$300 million in Ukraine funding.

While the supplemental funding package will likely win bipartisan support in the Senate where support for funding Ukraine has remained steady, Speaker McCarthy has expressed opposition to bringing an assistance package to the floor if it skirts defense-spending caps set in the debt-ceiling agreement. Given the time constraints on lawmakers to fund the government by the end of the fiscal year on October 1 upon their return from August recess, the supplemental would likely be attached to a short-term continuing resolution (CR) to keep the government running. In a conference call with the GOP caucus on Monday night, Speaker Kevin McCarthy acknowledged that the House will need to pass a CR in September while both chambers negotiate comprehensive spending legislation. He also expressed optimism that Congress could avoid a government shutdown on October 1. In a separate conversation with Senate Majority Leader Chuck Schumer (D-NY), McCarthy vowed that any stopgap funding measure he pursues would last no longer than early December to avoid extending the funding process into the holidays. Given the Freedom Caucus' opposition to funding the government at current levels, the passage of any CR in the House may prove difficult, as well as politically dangerous for the speaker. The NAWE team will continue to monitor progress on the House and Senate appropriations process and report on further developments in this area.

NAWE Regulatory Updates

Southern California Air Quality Agency Proposes Emissions Rule that would Cap Los Angeles and Long Beach Port Volumes – The South Coast Air Quality Management District (SCAQMD), a regional air quality agency representing Los Angeles, Orange, Riverside and San Bernardino counties, is working to enact a Port Indirect Source Rule (ISR) to reduce mobile emissions for the ports of Los Angeles and Long Beach by December 2023. In an op-ed published by the Journal of Commerce last week, John McLaurin, President of the Pacific Merchant Shipping Association, argues that the proposed rule would cap cargo volumes at the nation’s busiest container gateway. According to McLaurin, the ISR would set hard target dates for total emission reductions on all supply chain components and would make those reductions the responsibility of the ports and terminal operators. The level of emissions reduction specified in the proposed ISR would also require the use of technology or fuels that do not currently exist and does nothing to advance the development of those technologies. If the proposal goes into effect, to avoid violating the law, ports would be required to radically lower emissions, even from sources they do not control, which would likely necessitate reducing cargo volumes. Other consequences of the proposed ISR, according to McLaurin, include supply chain congestion resulting from caps on cargo volume and the diversion of shippers to other ports over confusion about whether the ports of L.A. and Long Beach are open for business. To read the op-ed, [click here](#).

FMC Updates

Cindy Hennigan Named Deputy Managing Director – FMC Chairman Daniel B. Maffei on Monday announced that Cindy R. Hennigan has been designated as the Deputy Managing Director and appointed to be a member of the Senior Executive Service. As Deputy Managing Director, Ms. Hennigan will serve as the operating director for the Commission’s administrative functions and as the primary technical advisor to the Managing Director. To read the announcement, click [here](#).

FMC Commissioner Bentzel to Discuss MTDI on August 17 – Commissioner Carl Bentzel will be the featured speaker during a webinar hosted on August 17 by flexport exploring the topic of “[Logistics Rewired: Discussing the Maritime Transportation Data Initiative](#)”. The event is free and open to the public, but registration is required. More information is available on the flexport website, [here](#).

Chairman Maffei to Speak to Virginia Maritime Association on October 4 – Chairman Daniel Maffei will address the “[VMA 2023 International Trade Symposium](#)” during a fireside chat entitled “Reliability through Regulatory Compliance & Rulemaking.” The symposium is being hosted by the Virginia Maritime Association. Click [here](#) for additional details about the event, including registration and costs.

Coast Guard Update

USCG Issues 2022 Cyber Trends and Insights in the Marine Environment Report -- U.S. Coast Guard Cyber Command announced the release of the second annual Cyber Trends and Insights in the Marine Environment (CTIME) report. In his forward to the report, Rear Admiral John C. Vann, Commander of U.S. Coast Guard Cyber Command, states, “Since the Coast Guard released its first Cyber Strategy in 2015, we have observed events reinforcing that cyberspace remains a contested domain including the exploitation of Federal government information networks, attacks on maritime critical infrastructure, and adversarial efforts to undermine our democratic processes. The 2022 CTIME report serves to share some of the specific trends and insights Coast Guard Cyber Command has gathered through its partnerships with ports, facilities, vessel operators, and all levels of government on some of the common vulnerabilities and potential threat vectors to the marine environment.” Click to view: [2022 Cyber Trends and Insights in the Marine Environment \(CTIME\) Report \(uscg.mil\)](#)

Upcoming DOT Infrastructure Grant Program Application Deadlines

2023 Multimodal Project Discretionary Grant program (MPDG) Combined NOFO – This is a new program established by the Biden Administration for large multimodal infrastructure projects that solicits grant applications at one time for several DOT programs, including INFRA, Mega, and Rural. The Mega grant program was created through the Biden Administration’s Bipartisan Infrastructure Law (BIL) and will invest \$5 billion through 2026. Eligible projects could include highway, bridge, freight, port, passenger rail, and public transportation projects of national or regional significance. Per the law, 50 percent of funds are available for projects above \$500 million in total cost, and 50 percent are available for projects between \$100 million and \$500 million in total cost. The deadline for applications is August 21, 2023 at 11:59 p.m. ET. Link: [here](#)

FHWA Opens NOFO for “PROTECT” Grants—Ports Among Eligible Recipients

The Federal Highway Administration (FHWA) opened applications for the first round of the Bipartisan Infrastructure Law’s Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) Discretionary Grant Program. The program will invest in projects to make the country’s surface transportation system – including highways, public transportation, pedestrian facilities, ports, and intercity passenger rail – more resilient to the worsening impacts of climate change, while reducing long-term costs by minimizing demands for more expensive future maintenance and rebuilding. The program prioritizes innovative and collaborative approaches to risk reduction – including approaches that harness the power of nature to protect against flood, erosion, wave damage, and heat impacts. The Notice of Funding Opportunity for Fiscal Years 2022 and 2023 is available [here](#) and will remain open for applicants through August 18, 2023.

DOT Posts FY 2023 Discretionary Grant Preparation Checklist for Applicants for Federal Transportation Funding

The U.S. Department of Transportation posted a comprehensive checklist for applicants for federal transportation grant program funding provided in FY 2023. According to DOT, the checklist is to assist eligible applicants better understand existing statutory and regulatory requirements and agency policies that they need to be aware of when filling out and submitting applications for DOT competitive grant programs funded in FY 2023. [Click to access DOT Grant Preparation Checklist.](#)

NAWE Event Updates

NAWE Security Committee to Meet on Wednesday, August 23 – please join the NAWE Security Committee this coming Wednesday, August 23, as we host a speaker from BEST, an organization fighting to end human trafficking. The presentation will be tailored to awareness and identifying signs of trafficking in the maritime industry as well as training initiatives that can be implemented. For more information on BEST, please visit <https://www.bestalliance.org/>. This meeting is open to all members. [Click here to add the event to your calendar.](#)

Early Bird Discount Expiring Soon – don’t forget to [register for NAWE’s Annual Meeting](#) happening in New Orleans from October 11-13 at the [luxurious Ritz-Carlton Hotel](#) in the heart of the French Quarter. We have a room block available for only \$299/night. Secure your spot today at the discounted rate before the early bird discount expires on August 31. We extend a special [thank you to our sponsors](#) who are helping to make this an unforgettable experience.

