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# NAWE News

February 23, 2024

## The Latest with NAWE

**FMC to Publish Final Rule on Demurrage and Detention** – On Monday, February 26, the Federal Maritime Commission (FMC) is expected to publish its final rule on demurrage and detention billing requirements. NAWE has received an advanced copy of the final rule and unfortunately, despite our efforts and congressional efforts, MTOs will remain in the final rule. We will evaluate the impact this rule has on members and will provide a full analysis in the coming days. The rule is not effective until May 27, 2024, 90 days following publication of the rule. We will consider the appropriate next steps following a full analysis.

**NAWE to Host West Coast Roundtable for Members on March 1 in Long Beach, CA** – NAWE is pleased to invite our members for breakfast and a roundtable discussion on March 1 at the Pacific Merchant Shipping Association office in Long Beach, CA. During the event, NAWE members will have an opportunity to gather and discuss a range of industry issues in a roundtable forum. Specifically, NAWE President Rob Murray will provide a recap of NAWE's federal advocacy efforts outlined in our 2023 annual report, and update members on federal issues that NAWE's team is tackling in 2024. In addition, NAWE's counsel, Jeff Vogel, will lead a thorough breakdown of the FMC's recently published final rule on Demurrage and Detention Billing Requirements as well as discuss next steps for NAWE's MTO members to consider before the rule goes into effect. Rob and Jeff will also highlight opportunities to work with Congressional leaders to recommend policy changes to make federal programs and regulatory agencies work better with established MTO frameworks.

NAWE strives to hold events such as these to address topics at the forefront of our members'

businesses. We encourage NAWE members to email any suggested topics for discussion by Friday, February 23, 2024, to [rmurray@nawe.us](mailto:rmurray@nawe.us). A formal agenda will be shared with attendees closer to the date of the event. Please see the event details below. Space is limited and an RSVP is required. Please RSVP at the link below if you plan to join us!

### Event Details:

**Date:** Friday, March 1, 2024

**Time:** 9 a.m. - Noon (PST)

**Location:** Pacific Merchant Shipping Association (1 World Trade Center, Suite 1700 Long Beach, CA 90831)

**RSVP:** [Please respond by February 23, 2024, by completing this brief form](#)

**NAWE Provides Industry Update to Administration Ahead of the State of the Union** – In January, U.S. House Speaker Mike Johnson (R-LA-04) invited the President to deliver the annual address during a joint session of Congress on March 7. As President Joe Biden prepares his remarks for the State of the Union (SOTU) address next month, NAWE sent a letter to several Biden Administration officials on the State of United States' Marine Terminal Operations. NAWE addressed the letter to Neera Tanden, Domestic Policy Advisor to President Joe Biden, and sent it to several U.S. Department of Transportation officials, including Secretary Pete Buttigieg, Deputy Secretary Polly Trottenberg, Under Secretary of Transportation Policy Carlos Monje, Senior Advisor to the U.S. Secretary of Transportation Michael Halle, and Maritime Administrator Ann Phillips. The letter emphasizes the billions of dollars in private capital that MTOs will invest to fund the purchase of zero and near-zero emissions cargo handling equipment. While NAWE thanks the Administration for its support of the \$3 billion in the Inflation Reduction Act to fund maritime decarbonization efforts, we note that more support from the federal government will be needed to meet the Administration's emission reduction goals. The letter also states that NAWE is working on developing new strategies to meet private funding challenges, including the bipartisan legislation led by Reps. Mike Ezell (R-MS-4) and Troy Carter (D-LA-2) to expand the Capital Construction Fund at MARAD, and NAWE's efforts working with Congress and the Executive Branch to explore permitting efficiencies for port projects to ensure that carbon reduction advancements can quickly be brought into operation. To read the full text of the letter, [click here](#).

**NAWE Call to Action on H.R. 4993, Bipartisan Legislation to Expand the Capital Construction Fund** – NAWE is pleased to report that the House Transportation and Infrastructure (T&I) Committee will take a key step in March to advance [H.R. 4993](#), NAWE-endorsed legislation to expand MARAD's Capital Construction Fund (CCF) program to allow MTOs to defer a portion of its taxable operating income to maximize targeted investments on new cargo handling equipment. The legislation is one of several bills under consideration to go through the committee's markup process – a formal step for a bill to receive committee support before advancing to the House floor.

The move is coming on the heels of growing support and momentum for H.R. 4993. Through the

active engagement and advocacy of NAWE members during NAWE on the Hill (NOTH) in January, several members of Congress announced their co-sponsorship and support of the legislation, including Representatives Garret Graves (R-LA-06) and Rob Menendez Jr., (D-NJ-08), and Resident Commissioner Jennifer Gonzalez-Colon (R-PR-AL). The legislation currently has [17 bipartisan cosponsors](#), all of which are committee members with jurisdiction over maritime policy. As we continue to conduct outreach to additional member offices, we urge each NAWE member company to reach out to their respective Member of Congress to ask them to consider cosponsoring H.R. 4993. Additional information on the legislation, which NAWE members can share with their representatives in Congress, can be accessed below.

- [H.R. 4993 Bill Text \(referred to House Transportation and Infrastructure Committee\)](#)
- [Dear Colleague from Reps. Ezell and Carter](#)
- [One-Pager on the bill \(summary\)](#)
- [Industry Support Letter to Congress](#)
- [National Association of Waterfront Employers \(NAWE\) Press Release](#)
- [Journal of Commerce article – Bill Introduction](#)
- [The-Waterways-Journal Op-Ed H.R. 4993](#)

### **Coastal Lawmakers Push EPA to Prioritize Seaports as Agency Rolls Out Clean Ports Program –**

Two bipartisan lawmakers representing portside communities – Reps. Robert Garcia (D-CA-42) and Randy Weber (R-TX-14) – are pressing the Environmental Protection Agency (EPA) to prioritize seaports as the agency finalizes implementation of the Clean Ports Program, a \$3 billion grant program authorized under the Inflation Reduction Act (IRA) that provides zero-emission port equipment and infrastructure as well as climate and air quality planning at U.S. Ports. In a February 16 letter to EPA Administrator Michael Regan, the two lawmakers, who are co-chairs of the Congressional PORTS Caucus, urge the agency to prioritize grants to seaports under the program, noting that inland ports tied to rail or highways are eligible for many sources of infrastructure funding, while money for modernizing seaports is oversubscribed. The representatives also press the EPA to set flexible completion deadlines for clean energy projects and allow more spending on electric grid infrastructure. Under these guidelines, Reps. Garcia and Weber argue that the new program will respond to the unique needs and environmental challenges of seaport and near-port communities and allow for the “efficient deployment of clean technology.” To read the full text of the letter, [click here](#).

## **Legislative Updates**

### **Deadlines to Avoid Government Shutdown Loom, Lawmakers Race to Finalize and Pass FY 2024 Funding Bills**

House and Senate lawmakers are racing to finalize the fiscal year 2024 appropriations bills before returning to the Capitol next week after the Presidents' Day recess. Upon their return on February 28, members of Congress will have only two days to pass the bills and send them to the president's desk for signature to avoid a partial government shutdown. Under the terms of the current continuing resolution (CR), four bills totaling roughly 20 percent of discretionary spending must be enacted by March 1, while the remaining eight annual bills—about

80 percent of funding—face a March 8 deadline.

Several weeks ago, top congressional negotiators reached an agreement on how much funding will be allocated for each of the 12 fiscal year 2024 appropriations bills, clearing a significant hurdle that has allowed appropriators to begin finalizing the measures. With the allocations determined, lawmakers have been working to set line-by-line funding levels for specific federal programs, while party leaders continue to negotiate controversial policy riders.

While member-level negotiations are taking place remotely this week, appropriators in both chambers are scrambling to put together multiple legislative packages before the deadlines. Although several lawmakers have expressed optimism that progress is being made to complete talks on the bills, top House Appropriations Committee Democrat Rosa DeLauro (D-CT-03) said conservative demands for controversial policy changes to be attached to spending bills continue to be a problem. Democrats have vowed to oppose any policy riders they consider “poison pills,” while the House Freedom Caucus is pressing Speaker Mike Johnson (R-LA-04) and GOP appropriators not to give in to Democrats and the Senate over policy riders, preferring to force a government shutdown if necessary.

A failure to pass a full-year bipartisan compromise package, which is expected to emerge in the coming days, would require Congress to pass another CR in March to keep the government operating. Under a provision in the 2023 debt ceiling law, a CR that extends past April 1 would force an automatic 1 percent cut to federal agency budgets, which would significantly disrupt agency operations. Additionally, according to Republican Majority Whip Tom Emmer (R-MN-06), the House will not pass another temporary funding bill. Ruling out another short-term spending bill raises the chances of a shutdown given the short amount of time Congress has left to complete and pass the FY 2024 funding measures.

Under the CR that was signed into law by President Biden on January 19, funding for the Transportation-HUD (T-HUD), Energy and Water, Agriculture, and Military Construction-VA appropriations bills will expire March 1, while funding for the remaining eight bills will expire on March 8.

We will continue to closely monitor and report further on any significant developments on FY 2024 appropriations measures.

### **Transportation & Maritime Security Subcommittee Hearing on Port Cybersecurity Announced –**

The Transportation and Maritime Security Subcommittee of the House Homeland Security Committee announced that it will hold a hearing entitled, “Port Cybersecurity: The Insidious Threat to U.S. Maritime Ports.” The Subcommittee will meet at 10:00 a.m. EST on Thursday, February 29, 2024, in 310 Cannon House Office Building. At this time, a list of witnesses testifying before the Subcommittee is not yet available. This event will be streamed live at [homeland.house.gov](https://www.homeland.house.gov) and on [YouTube](https://www.youtube.com).

**California Member Introduces Legislation to Support Hydrogen-fueled Equipment at Ports, Explore Feasibility of Using Hydrogen-derived Fuels for Shipping** – On January 2, 2024, U.S. Rep. Katie Porter (D-CA-47) introduced H.R. 6872, the Hydrogen for Ports Act, which would require the Secretary of Energy to establish a grant program to support hydrogen-fueled equipment at ports and to conduct a study with the Secretary of Transportation and the Secretary of Homeland Security on the feasibility and safety of using hydrogen-derived fuels, including ammonia, as a shipping fuel. The bill is jointly referred to the House Energy & Commerce and Transportation & Infrastructure Committees. To date, no further action has been taken on the measure. [Click here](#) to view the bill's text.

## Executive Branch Updates

**Biden Administration Issues New Directives Aimed at Bolstering Cybersecurity at U.S. Ports** – President Joe Biden issued two executive orders (EOs) this week containing a set of actions designed to protect the maritime sector from cyberattacks that could cause major disruptions in the global supply chain. The first of the two directives will reinforce the U.S. Coast Guard's (USCG's) authority to directly address maritime cyber threats, including through new cybersecurity standards, to ensure the networks and systems at U.S. ports are secure. Specifically, the USCG will have express authority to respond to malicious cyber activity by requiring vessels and waterfront facilities to mitigate cyber conditions that may endanger the safety of a vessel, facility, or harbor. The EO will also require port and ship operators to report cyber incidents that endanger any vessel, harbor, port, or waterfront facility. Additionally, the USCG will now control the movement of vessels that present a "known or suspected cyber threat" to U.S. maritime infrastructure and be able to inspect vessels and facilities that pose a threat to our cybersecurity.

A second EO issued by the administration takes additional actions to improve maritime cybersecurity. Through a new USCG Maritime Security Directive, owners and operators of ship-to-shore cranes manufactured by the People's Republic of China (PRC) and located at strategic seaports will be required to meet a series of new digital security requirements for those cranes. Additionally, the USCG has issued a Notice of Proposed Rulemaking (NPRM) on Cybersecurity in the Marine Transportation System, which would strengthen digital systems that operate at U.S. ports by establishing baseline cybersecurity requirements that meet international and industry-recognized standards to best manage cyber threats. Click to view the NPRM: <https://www.govinfo.gov/content/pkg/FR-2024-02-22/pdf/2024-03075.pdf>.

Finally, through the President's Bipartisan Infrastructure Law (BIL) and Inflation Reduction Act (IRA), the Administration intends to set \$20 billion aside, including grant allocations, for U.S. port infrastructure over the next five years. NAWE will continue to monitor this allocation for any potential new funding opportunities available to NAWE's members.

In conjunction with the administration's second EO, MARAD issued this MSCI Advisory titled "[2024-002-Worldwide-Foreign Adversarial Technological, Physical, and Cyber Influence](#)." According to the



MSCI Advisory, "This Advisory seeks to alert maritime stakeholders of potential vulnerabilities to maritime port equipment, networks, operating systems, software, and infrastructure. Foreign companies manufacture, install, and maintain port equipment that creates vulnerabilities to global maritime infrastructure information technology (IT) and operational technology (OT) systems. In the past few years, the U.S. Government has published several documents illuminating the risks associated with integrating and utilizing the People's Republic of China's (PRC's) state-supported National Public Information Platform for Transportation and Logistics (LOGINK), Nuctech scanners, and automated ship-to-shore cranes worldwide." To read more, [click here](#).

**U.S. Coast Guard Issues Maritime Security Directive 105-4:** Cyber Risk Management Actions for Ship-to-Shore Cranes Manufactured by People's Republic of China Companies – On February 21, 2024, the U.S. Coast Guard issued MARSEC Directive 105-4. This directive provides cyber risk management actions for owners or operators of PRC-manufactured STS cranes manufactured. According to the directive, "Owners or operators of PRC-manufactured STS cranes should immediately contact their local COTP or cognizant District Commander for a copy of MARSEC Directive 105-4. The Maritime Transportation Security Act's implementing regulations in 33 CFR parts 101-105 are designed to protect the maritime elements of the national transportation system. Under 33 CFR 101.405, the Coast Guard may set forth additional security measures to respond to a threat assessment or to a specific threat against those maritime elements. In addition, per 33 CFR 6.14-1, the Commandant "may prescribe such conditions and restrictions relating to the safety of waterfront facilities and vessels in port as the Commandant finds to be necessary under existing circumstances." PRC-manufactured STS cranes make up the largest share of the global ship-to-shore crane market and account for nearly 80% of the STS cranes at U.S. ports. By design, these cranes may be controlled, serviced, and programmed from remote locations, and those features potentially leave PRC-manufactured STS cranes vulnerable to exploitation, threatening the maritime elements of the national transportation system. As such, additional measures are necessary to prevent a Transportation Security Incident in the national transportation system due to the prevalence of PRC-manufactured STS cranes in the U.S., threat intelligence related to the PRC's interest in disrupting U.S. critical infrastructure, and the built-in vulnerabilities for remote access and control of these STS cranes." To view the Maritime Security Directive, [click here](#).

**Federal Maritime Commission Releases Recording of Hearing on Red Sea** – The recording of an informal public hearing held by the Federal Maritime Commission (FMC) examining impacts from attacks on merchant shipping in the Red Sea and Gulf of Aden is now available for streaming on the [Commission's YouTube channel](#). During the hearing held on February 7, 2024, the Commission heard from ten participants representing the perspectives of shippers, ocean common carriers, and ports. The prepared statements of hearing participants, as well as statements submitted by other interested parties, can be found on [Regulations.gov](#). You can also read Chairman Maffei's opening statement, [click here](#), Commissioner Bentzel's opening statement, [click here](#), and Commissioner Vekich's opening remarks, [click here](#).

**Commissioner Vekich to Address Transportation Go! on March 14** – On March 14, Commissioner

Max Vekich will participate on a panel discussion entitled "Finding Solutions from Rail to Sea" at the 2024 "Transportation Go" Conference in Toledo, OH. The conference is organized by the Specialty Soya and Grains Alliance. The full agenda and information on how to register can be found on the [Transportation Go! Website](#).

**Chairman Maffei to Address New England Trade Group on April 10** – Chairman Daniel Maffei will provide the Keynote address at the Coalition of New England Companies for Trade's (CONNECT) 28th Annual Trade & Transportation Conference on April 10. The conference takes place April 9-11, and more information about the agenda and cost to attend can be found on the [CONNECT website](#).



## Grants Corner

Welcome to Grants Corner! This section of our newsletter will feature available grant funding opportunities that are of interest to NAWE members. Please do not hesitate to reach out to any of the NAWE staff if you have questions about the specific grant programs included below.

Please remain on the lookout for upcoming grant webinars and training sessions hosted by NAWE.

**Biden Administration Posts Open and Upcoming Infrastructure Funding Opportunities** – On November 2, the Biden Administration posted an updated list of open and upcoming infrastructure funding opportunities under the Bipartisan Infrastructure Law (BIL). The document highlights funding opportunities that communities can apply for today, as well as a calendar of key upcoming funding opportunities for 2024. To view the full list of programs, their descriptions, and deadlines, please click [here](#).

**FY 2024 Open Grant Opportunities** – The U.S. Department of Transportation (DOT) has announced that they are now accepting FY 2024 applications for the following programs:

1. **DOT Maritime Administration's Port Infrastructure Development Program (PIDP)** – PIDP assists in funding eligible projects for the purpose of improving the safety, efficiency, or reliability of the movement of goods through ports and intermodal connections to ports. There is \$450 million available to be awarded. Applications must be submitted no later than April 30, 2024. For more information on the application process, [click here](#).
2. **DOT's Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Program** – The RAISE program allows project sponsors at the state and local levels to obtain funding for multi-modal, multi-jurisdictional projects that are more difficult to support through traditional DOT programs. There is \$1.5 billion available to be awarded. Applications must be submitted no later than February 28, 2024. Selections will be announced no later than June 27, 2024. For more information on the application process, [click here](#). To view recordings of the FY 2024

RAISE Webinar Series, [click here](#).

**FY 2023 DOT Infrastructure Grant Applications and Award Deadlines** – The application deadlines for the majority of FY 2023 DOT infrastructure grants of interest to NAWE members are now expired. According to the White House's "Upcoming Infrastructure Funding Opportunities" webpage, remaining NOFOs and program awards that may possibly be released in early 2024 are:

1. **DOT's Consolidated Rail Infrastructure & Safety Improvements (CRISI)** – TBD
2. **DOT's Railroad Crossing Elimination Program** – TBD
3. **EPA's Clean Ports Program** – TBD

**DOT Posts List of Grant Application Resources** – The DOT posted an updated list of its popular "Grants Navigator Application Resources". Below are links to the DOT's resources:

- [Understanding Non-Federal Match Requirements](#)
- [Discretionary Grant Preparation Application Checklist](#)
- [Checklist for a Strong Climate Change Mitigation, Adaptation and Resilience Grant Application](#)
- [Federal Tools to Determine Disadvantaged Community Status](#)
- [Use of DOT Funds for Public Involvement](#)

The NAWE team continues to monitor and will report any updates on the 2024 round of NOFOs for federal grant program opportunities of interest to NAWE members.

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## Upcoming Events

**West Coast Roundtable** - On Friday, March 1, NAWE will hold a roundtable forum on March 1st at the Pacific Merchant Shipping Association office in Long Beach, California. This roundtable will allow us to hold conversations on FMC initiatives and rule making, congressional efforts, and challenges and opportunities facing our members. Details and the link to RSVP are included below.

- **When:** Friday, March 1, 2024
- **Time:** 9:00am - 12:00pm
- **Where:** Pacific Merchant Shipping Association  
1 World Trade Center, Suite 1700  
Long Beach, CA 90831
- **Respond:** [RSVP at the link here](#)

**Time Change for March 3 West Coast Gathering** - Next week, NAWE will host a gathering for our members in Long Beach, California. The gathering will be at the Grand Hyatt Centric Topsail Rooftop Pool and Bar on Sunday, March 3, 2024, from 7:00-9:00pm. Please note this update from our original start time of 5:00pm. Space is limited, so please [RSVP at this link](#) in advance.



**NAWE on the Hill (NOTH) 2024** – We look forward to hosting the next 2024 NAWE on the Hill (NOTH) event for NAWE members from May 13-14. These fly-ins allow NAWE members the chance to directly interact with members of Congress and their staff. If you would like to join, please RSVP for the event linked below.

- [Register to participate in NAWE on the Hill](#)
- [Reserve a room at the Kimpton George Hotel for NAWE on the Hill \(\\$399 + tax/per night\)](#)

### March NAWE Committee Meetings

- March 12, 2024 at 4:00 pm ET - NAWE Legislative Committee Meeting
- March 21, 2024 at 12:00 pm ET - NAWE Environmental, Energy, and Equipment Committee Meeting

## Articles of Interest



### Journal of Commerce

[Supreme Court declines to hear SC ports' appeal to Leatherman Ruling\\_ports](#)

February 20, 2024

The US Supreme Court has declined to hear an appeal of a lower court decision that upheld the ILA's right to sue ocean carriers that call the Port of Charleston's Hugh K. Leatherman terminal, handing the port a loss and the union a victory in its battle to enforce its jurisdiction at ports using non-union labor for container work.



### Bureau of Ocean Energy Management

[BOEM and NOAA announce final North Atlantic right whale & offshore wind energy strategy](#)

January 2024

BOEM and NOAA Fisheries recently finalized a joint [North Atlantic Right Whale and Offshore Wind Strategy](#) to protect and promote the recovery of this endangered species while responsibly developing offshore wind energy.



### Wall Street Journal

[U.S. to invest billions to replace China-made cranes at nation's ports](#)

February 21, 2024

The Biden administration plans to invest billions in the domestic manufacturing of cargo cranes, seeking to counter fears that the prevalent use of China-built cranes with advanced software at many U.S. ports poses a potential national security risk.



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