



National Association of Waterfront Employers

September 1, 2023

NAWE News

Latest with NAWE

Yusen Terminals LLC Joins NAWE -- We are excited to share that NAWE's board of directors unanimously approved [Yusen Terminals LLC](#) (YTI) application to join the association! Yusen is the latest marine terminal operator to join NAWE, recognizing the influence and impactful work NAWE's team and its members have in Washington, DC. NAWE's membership continues to grow as MTOs, and other maritime stakeholders, recognize the benefit and value of having a seat at our table. We look forward to working with YTI's leadership team and for their contributions during NAWE's member committee meetings.

Bipartisan Sponsors of Bill to Allow Use of Tax-Deferred Income for Cargo Handling Equipment Upgrades Seek House Cosponsors – NAWE Urges Its Members to Ask Their Congressional Delegations to Support H.R. 4993 – House Transportation & Infrastructure Committee members Representatives Mike Ezell (R-MS-04) and Troy Carter (D-LA-02) sent a “Dear Colleague” letter to all of their fellow House members inviting them to sign on as cosponsors of their bipartisan bill, H.R. 4993. The Ezell-Carter bill would extend tax incentives in order to maximize private capital investments aimed at lowering emissions at ports and waterways, advance innovative technologies in domestic manufacturing, and create new high-skilled job opportunities for American workers. If signed into law, Marine Terminal Operators would be able to deposit a portion of their taxable income into a Capital Construction Fund account and use those funds on a tax-deferred basis to maximize its purchasing power for zero or near-zero cargo handling equipment. You can read NAWE's [release here](#).

NAWE strongly supports this bipartisan legislation and urges each of our member companies to reach out to their respective Member of Congress, asking them to consider cosponsoring H.R. 4993. The NAWE team was on Capitol Hill this week gathering staff contacts for each of our target offices for outreach. Please look for an action ask email from NAWE next week that will include a draft outreach message, more details about the bill, and staff contacts.

House Members Send Letter Urging FMC to Follow Congressional Intent Outlined in OSRA 2022 – On August 24, 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 requirement 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, the Representatives urged that the Commission's rulemaking should be based on the final version of the OSRA-2022 bill that became law. Specifically, Reps. Auchincloss and Babin cite that burdensome demurrage billing requirements and other provisions that would have potentially negative impacts on MTOs and the supply chain included in the original House or Senate bills,

but removed from the final version of the OSRA-2022 that became law, should not be part of FMC's proposed rulemaking for implementation of OSRA-2022. [Click here to view the letter](#). [Click here to view NAWE's release](#). [Click here to view NAWE's comments](#) submitted to the FMC for the D&D NPRM.

NAWE Legislative Updates

Prospect of a Shutdown without Help from Dems – House Speaker Kevin McCarthy's (R-CA-20) path to avoid a government shutdown on October 1 has narrowed, as the House GOP's Freedom Caucus last Monday announced it would oppose a "clean" short-term funding measure. Specifically, the group of conservative lawmakers said they would oppose a short-term extension of government funding through a Continuing Resolution (CR) that fails to include their border security priorities, address what they view as the "unprecedented weaponization" of the Justice Department, and end "woke" Defense Department policies – initiatives that have no chance of passing the Democratic Senate. The group also warned that they would oppose using a series of short-term funding extensions to force the passage of an "omnibus" spending bill at year's end and would use procedural votes to prevent such an outcome. Although McCarthy has vowed not to push an omnibus spending package, which would roll all 12 federal spending bills into one larger piece of legislation, he hasn't ruled out pairing some bills together into several smaller packages.

Given the House's struggles to pass funding legislation prior to the August recess, Speaker McCarthy acknowledged earlier this month that the lower chamber would need to pass a CR in September while both chambers negotiate a comprehensive spending package to avoid a government shutdown. The House passed only one of its 12 appropriations bills amid deep divisions in the Republican conference. Although McCarthy wants to take up additional spending measures when the House returns in mid-September, there is a disagreement within the conference on most of the remaining bills, as well as ongoing debate over conservatives' demands on overall spending levels.

The Freedom Caucus' position on a short-term funding fix and government spending levels leaves Speaker McCarthy with the option of either accepting a government shutdown or enlisting the help of Democrats. Some leading Republicans, including appropriators, believe that lobbying Democrats for their support is the more politically sound decision. However, such a move would prove more politically perilous for McCarthy, as members of the House Freedom Caucus earlier this year threatened to call for a vote stripping him of the speakership due to his compromise with the Democrats on the debt limit deal. Also, not everyone in the GOP leadership is opposed to the Freedom Caucus' demands. House Majority Leader Steve Scalise (R-LA-01) said that he supports conservatives who want to tie the border security measures to the appropriations process. He also indicated that he is more concerned about limiting spending and the Biden Administration's agenda than shutting down the government.

The Speaker, vowing that any stopgap funding bill would not last beyond early December, has not specified how long of a spending patch he plans to propose in September. Some Republican lawmakers have expressed support for rolling deadlines – passing a stopgap bill every couple of weeks, as needed, rather than having the entire debate in early December – although they acknowledge that the disunity among members on passing a CR makes that approach risky as well.

Lawmakers Poised to Strip Culture-War Provisions from FY 2024 National Defense Authorization Act (NDAA) -- Lawmakers charged with crafting the final version of the NDAA are expected to strip contentious culture-war provisions included in the House version of the bill, complicating passage of the measure in the GOP-led House. Specifically, House and Senate negotiators, who are set to officially reconcile their chambers' versions of the NDAA in September, are expected to eliminate from the final version of the legislation such controversial provisions as restricting abortion access for military personnel; blocking military health insurance

from covering gender affirming treatment for transgender individuals; and limited diversity training for military personnel. Those provisions, which a small group of House GOP hardliners pressured House Speaker Kevin McCarthy to include in the amendment process, were attached to the House version of the NDAA (H.R. 2670) that passed in July.

Although the Democratic-led Senate avoided including such controversial provisions in its version of the must-pass defense policy legislation (S. 2226), getting the GOP-led House to approve a conference report stripped of those measures will be difficult. Given the House Freedom Caucus' support for the measures, Speaker McCarthy will have to rely on Democrats to pass the final legislation, and in doing so, risk his tenuous grip on the speaker's gavel. Also, when the House returns on September 12, it will have only 12 workdays to tackle a full agenda that includes passing 11 of the 12 annual appropriations bills and reconciling differences in those bills with the Senate. With that process likely to stall as the end of the fiscal year approaches, the House will consider the NDAA legislation in the wake of internal strife over the passage of a continuing resolution and, potentially, a government shutdown. Despite these challenges, some House Republicans, including House Armed Services Committee Chairman Rep. Mike Rogers (R-AL-03), believe the NDAA will ultimately pass the chamber given universal concerns over containing China and deterring a conflict over Taiwan. Further updates on the status of the NDAA and appropriations process will appear in future editions of NAWE News.

NAWE Regulatory Updates

Federal Maritime Commission (FMC) Updates

FMC Publishes Update of its Official Case Law Reporter – The FMC has published on its website an update to *Decisions of the Federal Maritime Commission, Second Series (Volume 6)*. This publication provides a compendium of Initial and Final Decisions of the Commission and selected other orders that may be significant or establish a legal precedent. The volume now incorporates the period of January through June 2023. To read the announcement [click here](#).

FMC Industry Advisory: Notice to Publish Names of Non-Compliant NVOCCs – On August 31, 2023, the FMC posted an Advisory that the Commission will begin posting names of Non-Vessel Operating Common Carriers (NVOCCs) that do not publish a tariff, contrary to FMC regulations (46 C.F.R. §520.3(a)). The public notice advised that the NVOCCs listed are at risk of the Commission taking steps to revoke the license or terminate the registration of these NVOCCs. According to FMC, the non-compliance list will be updated weekly. Click to view the [FMC Advisory 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.

Chairman Maffei Giving Keynote at WESCCON 2023 on October 27 -- FMC Chairman Daniel Maffei will provide the breakfast keynote address at "[WESCCON 2023](#)," the annual meeting of the Pacific Coast Council of Customs Brokers and Freight Forwarders (PCC). Information on registration and the cost to attend can be found on the PCC website.

U.S. Coast Guard Updates

Coast Guard Sets Port Condition Zulu for the Port of Wilmington Due to Hurricane Idalia – On August 30, 2023, the captain of North Carolina set port condition Zulu for the Port of Wilmington due to the predicted

sustained tropical storm force winds generated by Hurricane Idalia. To view the Coast Guard statement, [click here](#).

Upcoming DOT Infrastructure Grant Program Application Deadlines

FY 2023 DOT Infrastructure Grant Deadlines Have Expired – The application deadlines for FY 2023 DOT infrastructure grants are now expired. NAWE will post information on FY 2024 grant opportunities as Notice of Funding Opportunities (NOFOs) and other information becomes available.

NAWE Event Updates

Today is the final day to get the early bird discount for the NAWE Annual Meeting – We've extended the early bird discount for NAWE Members for one more day and the discount will [expire tonight at midnight](#). We have confirmed speakers from the U.S. Maritime Administration, the Federal Maritime Commission, and several other industry leaders that will make this a great event. Once you've registered for the event, [book your room at the Ritz-Carlton hotel](#) where we have a room block available for \$299 a night.

As a reminder, all NAWE Committees will meet in person at 1:00pm CT to start the conference, so please plan your travel arrangements accordingly to participate in them.

Quick Access:

[Register for NAWE Annual](#)
[Book Your Room at the Ritz-Carlton](#)
[NAWE Annual Meeting Agenda](#)
[Thank You to Our Sponsors](#)

Articles of Interest

American Journal of Transportation

[Port of LA's Seroka sees "muted peak season"](#)

August 25, 2023

Seroka's prediction comes as the Port reported a decline in July volumes: "July 2023 loaded imports landed at 364,208 TEUs, down 25% compared to the previous year. Loaded exports came in at 110,372 TEUs, an increase of 6% compared to last year. With the need for empty containers in Asia slowing, just 209,710 empty TEUs were processed, a 39% year-over-year decline. Combined, July volumes were 684,291 TEUs, a 27% year-over-year decline. Seven months into 2023, the Port has processed 4,821,670 TEUs, about 24% less than the same period last year."

Journal of Commerce

['Rushed' sourcing shift out of China prompts some reconsideration](#)

August 31, 2023

"China plus-one," "friend-shoring" and "reshoring" may be catchphrases of the day, with the underlying trends they describe being well-supported by macro-level trade data. But as sourcing shifts out of China due to risk mitigation and other factors, one thing is increasingly apparent: moving production out of China is costly, even to the point of leading some to reconsider it.

Wall Street Journal

[Where Peak-Season Shipping is Headed, In Charts](#)

August 29, 2023

This year's peak shipping season is arriving with a whimper, however, as merchants and consumer-goods suppliers continue to burn off excess inventories built up during the Covid-19 pandemic and logistics companies cope with tepid volume and freight rates far below year-ago levels.