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NAWE News

July 26, 2024

The Latest with NAWE

U.S. Senators Send Letter to U.S. Trade Representative in Opposition to August 1

Implementation of STS Crane Tariff – In a July 22 letter to U.S. Trade Representative Katherine Tai, Senators Tim Kaine (D-VA), Mark Warner (D-VA), Raphael Warnock (D-GA) and Jon Ossoff (D-GA) voiced their opposition to the Biden Administration's proposal to increase the duty rate on ship-to-shore (STS) cranes by 25 percent starting August 1.

While acknowledging the need to diversify the U.S. supply chain for STS cranes and applauding the Administration's deal to invest in the onshoring of STS crane manufacturing, the Senators express their shared concern that "the proposed tariff implementation timeline could negatively impact operations at U.S. ports." Specifically, the Senators cite the long-lead times for the manufacture of STS cranes—noting that some ports have already placed deposits on orders that will not be delivered until mid-2026—and argue that until domestic production is available at scale, the tariffs will only increase the price port authorities will pay and pull resources from critical infrastructure projects, such as enhancements in port efficiency.

The Senators also acknowledge national security concerns related to many STS cranes, including the potential for cybersecurity exploitation, espionage, or disruption. To mitigate the risks of those concerns, the Senators point to actions the U.S. Coast Guard have taken, including the issuance of [Maritime Security Directive 105-4](#), which requires owners and operators of Chinese-manufactured STS cranes to take specific cyber risk management actions. As their final recommendation, the Senators urge the Administration to continue its focus on implementing the USCG directive on STS cranes and work to standup a domestic manufacturing option rather than imposing duties on STS cranes on August 1. You can read the bipartisan letter by [clicking the link](#)

[here](#).

The NAWE team will continue to monitor this critical issue and provide updates as they occur.

FMC Publishes Final Rule on Unreasonable Refusal to Deal – The Federal Maritime Commission (FMC) on Sunday published its final rule concerning the "[Definition of Unreasonable Refusal to Deal or Negotiate with Respect to Vessel Space Accommodations](#)", which establishes requirements that apply to vessel-operating common carriers (VOCC) and containerized cargo. The rule lays the foundation for the Commission to apply [46 U.S.C. 41104\(a\)\(3\)](#) with respect to refusals of cargo space accommodations when available, and [46 U.S.C. 41104\(a\)\(10\)](#) with respect to refusals of vessel space accommodations. Specifically, where an alleged refusal by an ocean common carrier takes place during the "negotiation" phase of a transaction, 46 U.S.C. 41104(a)(10) would apply, while if an alleged refusal takes place after the negotiation phase, during the "execution" stage, 46 U.S.C. 41104(a)(3) would apply. The rule will require VOCCs to file a confidential documented export policy annually with the Commission, which must contain information on pricing strategies, services offered, strategies for equipment provision, and descriptions of markets served.

According to the FMC, claims brought before the Commission under either sections 41104(a)(3) or 41104(a)(10) will be reviewed and decided on a case-by-case basis, based on their specific facts and circumstances. If an ocean common carrier can prove there was a reasonable basis for refusing to negotiate or carry cargo, their conduct will not be found in violation of the law. The rule also establishes non-binding and non-exhaustive examples and considerations of unreasonable behavior the Commission may use in evaluating allegations that an ocean common carrier violated the law.

The rule will take effect 60 days from publication in the Federal Register; however, requirements for ocean common carriers to file a documented export policy with the Commission are currently delayed pending approval of the "Collection of Information" by the Office of Management and Budget. For more details regarding the rulemaking, visit the [FMC's website here](#).

NAWE Hosts Human Trafficking Prevention Webinar Sponsored by Businesses Ending Slavery and Trafficking (BEST) – NAWE hosted a virtual training session this week organized by the nonprofit organization Businesses Ending Slavery and Trafficking (BEST) to raise awareness among maritime industry workers about the critical issue of human trafficking at sea and how we can work together to prevent it. The training, titled *Ports to Freedom*, was led by Brianna Cho, Corporate Relations Coordinator for BEST. The first step in eradicating human trafficking—a global problem that thrives in the shadows and affects millions of lives—is to raise awareness about its prevalence and detrimental impact. The training raised awareness about the problem of human trafficking in the maritime industry by teaching attendees to identify signs and indicators of human trafficking, report suspicious activities, and take necessary actions to help protect survivors. If you missed this webinar and would like to access a recording, please email ckennedy@nawe.us.

NAWE to Hold Webinar on U.S. Presidential Race and its Impact on Congress – NAWE is excited to announce that we will be holding a webinar for NAWE members on Thursday, October 24, 2024 from 2:00-3:00 p.m. ET to discuss recent and significant developments that are unfolding in this year's presidential race. This pre-election briefing will not only address the historic developments in this year's presidential race, but how the race will impact Congress and what it means for NAWE and our legislative and regulatory interests. We will provide further information on this webinar, including a registration link for the event, in the near future.

Legislative Updates

Congress Resumes Consideration of FY 2025 Appropriations Bills After Adjourning for Republican National Convention – Both the U.S. House of Representatives and Senate are back in session this week after adjourning for the Republican National Convention last week. Upon Congress' return, both chambers resumed consideration of the FY 2025 appropriations bills. The full Senate Appropriations Committee (SAC) marked up several funding bills, including the Transportation & Housing and Urban Development (T-HUD) measure. The House, which originally scheduled four appropriations bills for floor consideration, was only able to pass one of the measures this week—a setback that ensures GOP leadership will not meet its ambitious timeline to pass all 12 appropriations bills before the August break.

The full Senate Appropriations Committee marked up several FY 2025 appropriations bills this week, including T-HUD, Commerce-Justice-Science, Interior & Environment, and State & Foreign Operations. Each of the bills passed with broad bipartisan support, bringing the total number of FY 2025 appropriations bills passed by the SAC to seven.

Of significant interest to NAWE members, the Senate T-HUD bill, which funds numerous grant programs under the Department of Transportation (DOT) and Maritime Administration (MARAD) that can be used for port infrastructure development, including the DOT's RAISE and Mega grant programs and MARAD's Port Infrastructure Development Program (PIDP), was approved by the Committee by a 28-1 vote.

In contrast to the Senate, the House scaled back its original plans to bring four of its FY 2025 appropriations bills to the floor for a vote this week. Additionally, the House has cancelled session for next week and announced it would not return until September 9—ensuring GOP leadership will not meet its ambitious timeline to pass each of the 12 appropriations bills before the August recess.

Republicans had previously planned to bring four funding bills to the floor this week but released a new floor schedule on Monday to vote on only two—Energy & Water Development and Interior & Environment. GOP leadership reportedly pulled two other funding bills from the schedule due to divisions within the Republican conference over language on abortion and contraceptive protections. The Republicans' \$7 billion Legislative Branch funding measure also suffered a

surprising defeat earlier in the month when 10 GOP members joined with Democrats to oppose the measure.

In another setback, House Republicans were forced to pull the Energy & Water Development from floor consideration on Tuesday due to insufficient support from its own conference. Many conservatives opposed the Energy & Water measure because their amendments did not make it into the funding bill, while GOP members from Georgia protested a lack of funding related to the Port of Savannah. The Energy & Water Development bill is of interest to NAWE members because it funds the U.S. Army Corps of Engineers and the Corp's Harbor Maintenance Trust Fund.

Late Wednesday evening, the Republican leadership passed its only appropriations measure of the week—the Interior and Environment bill—along a mostly party line vote of 210 to 205. To date, five bills have passed on the floor of the House and all 12 bills have passed out of committee. Those that have passed on the floor are the Defense, Interior & Environment, Homeland Security, Military Construction-Veterans Affairs, and State-Foreign Operations bills.

Republicans' inability to unite around their own FY 2025 funding bills, several of which are normally noncontroversial, underscores the conference's divisions over spending, with conservatives and politically vulnerable moderates clashing over proposed cuts and policy provisions. With the House in recess until September 9, it is likely that Congress will have to pass a continuing resolution to avert a government shutdown before the end of the fiscal year on October 1.

The NAWE team will continue to monitor progress on the House and Senate fiscal year 2025 appropriations process and report on any significant developments in this area.

Senate Files FY 2025 National Defense Authorization Act (NDAA), Bill May Include Coast Guard Authorization Act (CGAA) as Amendment – The U.S. Senate's version of the FY 2025 National Defense Authorization Act (NDAA), which was filed two weeks ago, may be brought to the floor for a vote as soon as next week. More than 800 amendments to the legislation—[S. 4638, National Defense Authorization Act for Fiscal Year 2025](#)—have already been filed, including a place-holder amendment filed by Senator Maria Cantwell (D-WA) that contains the framework for the 2024 Coast Guard Authorization Act (CGAA). The CGAA is of importance to NAWE members because it authorizes appropriations to support Coast Guard operations and enables the Service to continue to recapitalize its historically underfunded cutter fleet, shoreside facilities, and IT capabilities. The NAWE Legislative Team has conducted several meetings with Senate offices over the past two weeks to explore the possibility of including NAWE-supported provisions into the Senate CGAA amendment.

It was anticipated that the Senate would try to bring its version of the FY 2025 NDAA to the floor for a vote before the August recess. However, with one week remaining before recess, it is looking more likely that a floor vote on the Senate NDAA will be pushed into September or later in the year. If the bill does not make it to the floor for a vote, the Senate Armed Services Committee

(SASC) may informally negotiate the bill it reported out of Committee with the House-passed bill. The NAWE team will continue to monitor progress on the NDAA and report on any significant developments.

Water Resources Development Act of 2024 (WRDA 2024) Passes House – The House of Representatives on Monday approved H.R. 8812, the [Water Resources Development Act of 2024](#) (WRDA 2024). The bill, which was favorably reported by the Committee on June 26, was passed under suspension of the rules—a procedure used to quickly pass non-controversial bills. The Senate Committee on Environment & Public Works marked up its version of WRDA 2024 ([S. 4367](#)) on May 22.

This biennial reauthorization legislation is important to a number of NAWE members, as it is the legislative vehicle that authorizes all U.S. Army Corps of Engineers civil works activities, including authority for all maintenance dredging and navigation projects, as well as various reports and studies for new construction projects that are under consideration. Specifically, H.R. 8812 authorizes nearly \$10 billion for twelve Army Corps of Engineers projects in states such as Louisiana and Texas and directs the Corps to conduct 159 feasibility studies on various project requests including navigation projects.

Now that the House passed its version of WRDA 2024, it is expected that the House and Senate will begin formal negotiations on a consensus bill.

Executive Branch Updates

CMTS Seeking Input on Resilience Challenges for Ports – On July 15, the U.S. Committee on the Marine Transportation System (CMTS) published a request for information (RFI) in the Federal Register to identify what planning guidance, data sources, and grants U.S. ports have used in planning for long-term environmental change, and to identify if there are any barriers to action in planning for the future. As stated in the CMTS announcement, “(p)orts face a variety of challenges when it comes to environmental change. Many are already subjected to inundation from storm surge and other coastal flood factors, problems that will only be exacerbated in the near future. Absent accelerated revision in the use of expert resilience guidance and quality environmental data, U.S. competitiveness and operational efficiency in the marine transportation system will be negatively impacted.” The RFI will be open for 45 days, and the CMTS invites input from port managers and planners, firms contracted by ports, academic institutions that work alongside ports, and others who conduct work in or related to this space. The RFI can be found online at <https://www.federalregister.gov/documents/2024/07/15/2024-15356/request-for-information-to-identify-barriers-to-planning-for-climate-resilience-in-us-ports>.

Authorized by Congress in 2012, the U.S. Committee on the Marine Transportation System (CMTS) is a Federal maritime policy coordinating committee consisting of fourteen Cabinet Secretaries (chaired by the Secretary of Transportation). The purpose of the CMTS is to create a partnership of

Federal departments and agencies with responsibility for the Marine Transportation System (MTS).

FMC Designates Chinese Company a Controlled Carrier – On July 17, the Federal Maritime Commission (FMC) classified Anji Shipping Co. Ltd. as a controlled carrier of the People's Republic of China and has added it to the Commission's [Controlled Carrier List](#). Controlled carriers are ocean common carriers operating in the U.S.-foreign trades that are, or whose operating assets are, directly or indirectly owned or controlled by a foreign government. Controlled carriers are subject to enhanced regulatory oversight by the Commission. The Controlled Carrier List is not a comprehensive list of all foreign-owned, foreign-controlled, or government linked companies and assets. It is a list of companies meeting statutory requirements found at [46 U.S.C. Chapter 407](#). Commission regulations related to Controlled Carriers are found at [46 C.F.R. 565](#). For more information, [click here](#).

FMC Issues Request for Additional Information Regarding Gemini Agreement – On July 12, 2024, the FMC put on hold a global operational alliance between two of the largest container shipping companies by issuing a Request for Additional Information (RAI) to determine the potential competitive impacts of the arrangement. Maersk A/S and Hapag-Lloyd AG and Hapag-Lloyd USA, LLC filed the Gemini Cooperation Agreement ([No. 201429](#)) at the Commission on May 31, 2024. The agreement would allow these companies to share vessels in the trades between the United States and Asia, the Middle East, and Europe. The agreement would have gone into effect on July 15, 2024—45 days after the companies' filing—if the FMC had not issued the RAI. Reconsideration of the agreement will not commence until the FMC has received a fully compliant response to its inquiry. A 15-day public comment period opened last week when public notice of the RAI was published in the Federal Register. For more information, [click here](#).

Chairman Maffei to Deliver Remarks at NITL – On October 7, 2024, FMC Chairman Daniel Maffei will speak to the National Industrial Transportation League (NITL) Ocean Committee at the NITL Engage 2024 transportation conference. Schedule, information, and cost information is available on the [NITL website](#).

Chairman Maffei Speaking at Maritime Security Conference – On October 10, 2024, FMC Chairman Daniel Maffei will address the audience attending the Third Annual Maritime Security Conference being held by the New York Council Navy League of the United States. The theme of this year's event is "Securing the Sealanes". More information about the conference is [available online](#).

FMC Posts June 2024 Activity Report – On July 18, 2024, the FMC posted its June 2024 Activity Report on its website. Among the statements and releases included in the report are: 1) [FMC Investigating Possible Failure to Comply with chassis Provisioning Order](#); 2) [FMC Seeks Public Comments on New Maersk & Hapag-Lloyd Cooperative Agreement](#); 3) [Commission Publishes Update of its Official Case Law Reporter](#); 4) [FMC May Meeting Focused on Agency Outreach and Licensing Efforts](#); 5) [Industry Advisory: Requirements to Maintain Status as a VOCC](#); 6) [FMC Unveils](#)

[Redesigned Website](#); 7) [National Shipper Advisory Committee May 2024 Meeting Video](#); 8) [Chairman Maffei Visits PNW for Meetings with Ag Exporters and Key Supply Chain Executives](#); 9) [Trade, Shipping, and FMC Topics of CTA's "Conversation With a Commissioner" Event](#); 10) [Chairman Maffei Meets with Forwarders and Port Officials in Florida](#); 11) [Commissioner Sola Honored by Miami-Dade County](#); 12) [Commissioner Sola Discusses Alternative Marine Fuels During Panama Conference](#); 13) [Statement of Commissioner Carl W. Bentzel on the Northwest Seaport Alliance Peak Planning Session Participation and Expeditors Keynote Speech](#); 14) [Statement of Commissioner Carl W. Bentzel on His Participation in the Crossroads of the World International Summit](#); 15) [Statement of Commissioner Max Vekich on the Reopening of the Baltimore Harbor Channel](#); and 16) [May 2024 Activity Report](#). For more information, [click here](#).



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 May 10, 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 – There are currently no open grant opportunities.

Upcoming FY 2024 DOT Infrastructure Grant Opportunities – According to the White House's "Upcoming Infrastructure Funding Opportunities" webpage, remaining NOFOs that may be released for the remainder of 2024 are:

1. DOT's Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) Grant – Summer 2024
2. DOT's Reducing Truck Emissions at Ports Program – Fall 2024

DOT Posts List of Grant Application Resources – On May 15, DOT posted an updated list of its

popular "Grants Navigator Application Resources" which are included below.

1. [Understanding Non-Federal Match Requirements](#)
2. [Grant Application Checklist for a Strong Transportation Workforce and Labor Plan](#)
3. [What Is a Benefit-Cost Analysis \(BCA\)?](#)
4. [Checklist for a Strong Climate Change Mitigation, Adaptation and Resilience Grant Application](#)
5. [Federal Tools to Determine Disadvantaged Community Status](#)
6. [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.

Upcoming Events

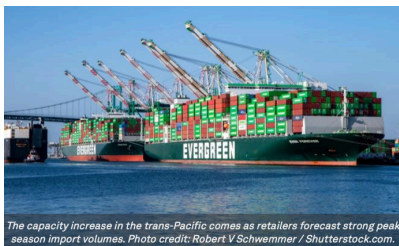
NAWE Annual 2024 – We look forward to hosting our 2024 Annual Meeting will be held in Old San Juan, Puerto Rico this November 13-15! The meeting will take place at [Hotel Rumbao, a Tribute Portfolio Hotel](#). Guest rooms are available for \$199 + tax per night. We hope to see you in Puerto Rico in November!

- [Reserve a room for NAWE Annual](#)

Committee Meetings in August

- NAWE Insurance Committee Meeting – August 20, 2024, at 11am ET

Articles of Interest

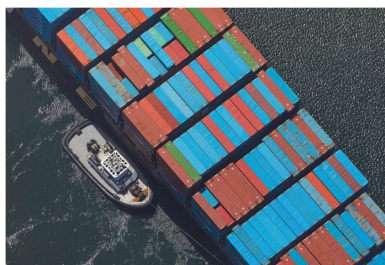


The capacity increase in the trans-Pacific comes as retailers forecast strong peak season import volumes. Photo credit: Robert V Schwemmer / Shutterstock.com.

Journal of Commerce

[Service additions in trans-Pacific drive big boost in July deployed capacity](#)
July 16, 2024

The launch or restart of 10 Asian services calling North America has put almost 16% more deployed vessel capacity on the eastbound trans-Pacific



The fragility of global trade has been highlighted by six months of attacks on vessels in the Red Sea that few experts predicted would last so long. Photographer: Tim Rue/Bloomberg

Bloomberg

[Global Shipping Strains Spark Fears of an Inflation Comeback](#)
July 17, 2024

Jason Starr felt the first flashbacks of pandemic PTSD back in mid-April. That's when the vice president of operations



American Journal of Transportation

[US backs Canada moving to close Chinese electric car 'loophole'](#)
July 25, 2024

The US ambassador to Canada said he's encouraged by signs of Prime Minister Justin

this month compared with June and the most tonnage on the water in at least three years.

at Montreal-based Globe Electric heard something he hadn't in 18 months: Bookings on cargo ships from Asia were getting tight.

Trudeau's government closing a "loophole" that might have allowed Chinese-backed electric vehicles to enter the US via Canada, sidestepping its tariffs.



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