

MONTHLY REPORT for ICS

March 2024

USCG Notice of Proposed Rulemaking (NPRM) on Cybersecurity in the MTS

As noted in last month's report, the USCG released a Notice of Proposed Rulemaking (NPRM) to add regulations for cybersecurity requirements for U.S.-flagged vessels, Outer Continental Shelf facilities, and U.S. facilities subject to the Maritime Transportation Security Act of 2002 as subpart F to 33 CFR 101. CSA spoke with USCG and was the first to request a 30-day extension to the current deadline of April 22, 2024. Several other Organizations have also requested extensions. We will notify members as soon as USCG makes a decision on this extension.

Additionally, please send any comments on this NPRM that you would like CSA to include or reiterate in the comments we will submit to the Federal Docket.

Link to the full NPRM document and comment portal identified by docket number USCG-2022-0802:

[NPRM Cybersecurity in the Marine Transportation System \(docket number USCG-2022-0802\)](#)

USCG Authorization Act (offered as an amendment in the form of a substitute to HR 7659)

The above referenced act was passed out of the House Transportation and Infrastructure Committee on March 20, 2024, and is now awaiting floor action and debate by the full House of Representatives. Two provisions of the bill are notable.

The first provision is the text which contains the provisions of the American Offshore Worker Fairness which was originally introduced in the Senate as S 3038 in October 2023 but has received no action in the Senate in the form of hearings or committee markups on the bill. As summarized in our October 2023 monthly report, this text (Senate stand alone bill, House USCG Authorization Act text) would alter the current exemption allowing foreign flag vessels/rigs/platforms to operate on the US Outer Continental Shelf to require that individuals employed on these vessels to be either citizens of the US, a lawfully admitted alien or a citizen of the nation under which the vessel/rig/platform is registered. A permanent exemption would be available where the vessel/rig/platform performs an offshore lift in excess of 1,000 metric tons and has a crane with a height capability of 180 meters or for vessels/rigs/platforms that are transporting an offshore wind component that is part of the installation of an offshore wind turbine and is less than 1,000 metric

tons in weight. A detailed exemption and review process is also included in the text.

The second provision of interest is the section which addresses risk based inspection of tank vessels, an issue on which CSA and many other industry colleagues have been working for several years. This text relates to the current situation in many US ports, particularly those in the Gulf of Mexico, where non-US flag vessels have tried to schedule their Certificate of Compliance (COC) inspections in a timely manner but have been unable to do so due to a shortage of USCG inspection resources in some US ports which has caused expensive delays in vessel operations due to the requirement that all non-US flag vessels must be physically inspected by USCG personnel. This text would allow the USCG to adopt a risk based approach to COC inspection type (in person vs documentation check for low risk vessels) for all tank vessels after certain specified conditions are met. CSA has advocated for this change multiple times and submitted a letter to the House Transportation and Infrastructure Committee leadership and the House Coast Guard and Marine Transportation Subcommittee leadership urging the inclusion of this text in the marked up version now sent to the House floor for further action. Relevant portions of our advocacy letter are as follows:

[BEGIN TEXT] We write today to offer our perspective on the issue addressed in Section 324 (Risk Based Inspection of Tank Vessels), and why providing the Coast Guard with flexibility to expand a risk-based approach to include all tank vessels is critical to assuring US Coast Guard inspection resources are properly directed on a risk basis, and why now is the time to do this.

- The Coast Guard is severely understaffed, and short by at least 400 marine inspectors. Under the current law, the Coast Guard is required to inspect all tank vessels at the same intervals. Approximate calculations show the Coast Guard spent, at a minimum, 69,648 man-hours on safety exams in 2022 and ranging upwards to 139,296 man-hours. The lack of an inspection workforce creates a bottleneck of vessels that leads to costly delays for industry stakeholders and ultimately threatens the continuity of the domestic fuel supply chain.
- A risk-based approach maintains safety and better utilizes U.S. Coast Guard resources. Today, the Coast Guard is required to inspect all tank vessels on a yearly basis, even those that always perform well. A risk-based approach allows the Coast Guard to focus their resources on the poor performers to raise their performance or drive them out of U.S. waters and aligns with other risk-based programs used by DHS agencies, such as the Container Security Initiative (CSI) under CBP. Some of the tools used by industry, such as SIRE and CDI inspection reports, could be available to the Coast Guard for use in their program.

- The shortage of qualified USCG inspectors is a problem being encountered in most US ports, most notably on the US East Coast and the Gulf of Mexico. Expanding this risk-based approach to all tank vessels will have a significantly greater benefit than only including liquefied gas carrier vessels, as was previously being considered.
- These tank vessels already undergo many safety inspections recognized by the Coast Guard. All tank vessels are subject to layers of U.S. and international regulations and inspection programs, along with the risk-based vetting programs already in use by many oil and chemical companies. These overlapping programs have had a positive effect on the performance of the tanker fleets and are why tankers are some of the safest vessels plying our waters - a fact that is supported with data the Coast Guard has today. Accordingly, there is no reason not to include these other tankers in a risk-based program.

Unlike the rest of the world that operates on a 5-year cycle for vessel inspections, the current Coast Guard inspection program related to foreign-flagged tankers is based on an annual inspection requirement known as the Certificate of Compliance (COC Inspection). These inspections can often lead to unintentional delays, resulting in increased costs, an unnecessary increase in air emissions, and increased traffic in constrained channels that also creates additional navigational hazards and risks. A one-day delay to a vessel can cost from \$17,000 to over \$100,000 in losses, and missing a scheduled window at the Panama Canal can lead to a 10-day delay before crossing and hundreds of thousands of dollars in potential losses. Many of these losses hit the finances of U.S.-based companies, driving up our costs as we compete in the global market and/or find their way into increased costs to U.S. consumers.

There is no doubt that the Coast Guard will benefit by refocusing resources through a risk-based program, spending less time on vessels that are performing well. There are other reasons to support why vessels that are well-operated should reap some benefit for that good performance. Truly, there should be consequences for performance, whether good or bad, and ultimately vessels that perform well will suffer fewer inspection delays and lower costs, serving as an incentive for good performance. It also helps level the playing field with those poor performers who should be targeted for more frequent inspections. The Coast Guard already tracks performance and assesses risk in its programs, and the studies have already confirmed the benefits of a risk-based program. Neither the Coast Guard nor the industry can afford to miss out on this opportunity for all tank vessels visiting our ports. **[END TEXT]**

Ocean Shipping Reform Implementation Act of 2023 (HR 1836)

Originally introduced in the House in March 2023, the House passed this bill on March 21, 2024. The bill has been received in the Senate and has been referred

to the Senate Commerce Committee for further action. At this time no specific actions in the form of hearings or debate have been scheduled.

Recapping our previous summary of this bill, the bill expands the Federal Maritime Commission's (FMC) authority to regulate technology and anticompetitive practices within the international ocean transportation system. The bill (1) expands the definition of "controlled carrier" to include carriers legally or financially related to a corporation based in a nonmarket economy country, (2) requires the FMC to accept and investigate complaints concerning alleged anticompetitive practices by registered shipping exchanges, (3) requires the FMC to establish a data standard to facilitate the voluntary sharing of supply chain data, (4) requires FMC to establish standards for price indexes for containerized ocean freight published by shipping exchanges, (5) prohibits a recipient of certain US grants from using China's logistics platform (LOGINK) or transportation logistics software controlled by a foreign subsidiary and (6) establishes a National Port Advisory Committee and a National Ocean Carrier Advisory Committee which will work with the existing National Shipper Advisory Committee to advise the FMC on policies relating to the competitiveness, reliability and efficiency in the international ocean freight delivery system.

Status of Other Maritime Related Legislation Previously Summarized

CSA continues to monitor the status of several legislative proposals that have been previously summarized in past monthly reports. The status of these bills are as follows:

Energizing American Shipbuilding Act of 2023 (S 3467, HR 6724) – introduced in the Senate and House on December 12, 2023, and referred to Senate Banking Committee and House Committee on Energy and Commerce (Subcommittee on Energy, Climate and Grid Security). This bill would require US built, US flag vessels to transport a certain percentage of US LNG and crude oil exports with increasing carry percentages through the next two decades.

Renewable Fuel for Ocean-Going Vessels Act (HR 6681) – introduced on December 7, 2023, and referred to the House Energy and Commerce Committee (Subcommittee on the Environment). This bill would add "fuel for ocean-going vessels" to the current qualifying fuels used for home heating oil and jet fuel to the EPA Renewable Fuel Standard (RFS).

American Port Access Privileges Act (HR 1013) – introduced on Feb 14, 2023, and referred to the House Committee on Transportation and Infrastructure. This bill requires port authorities that receive federal funding to provide preferential berthing for certain vessels including US flag vessels, vessels with a coastwise endorsement, vessels participating in the Maritime Security Program, the Emergency Preparedness Program, the Cable Security Fleet, the National Defense Reserve Fleet, the Tanker Security Fleet, vessels of any flag calling at more than 1 US port before calling on a foreign port, and

vessels of any flag that have certified cargo bookings of US exports that are estimated to weigh not less than 51% of the vessels total carrying capacity or equivalent to 51% of such vessel's total carrying capacity of 20 foot equivalent units before calling on a foreign port. The bill also authorizes the Bureau of Transportation Statistics to collect data on berthing and cargo practices at US ports.

Clean Shipping Act of 2023 (HR 4024) – introduced on June 12, 2023, and referred to the House Committee on Energy and Commerce (Subcommittee on Environment). This bill establishes increasing more stringent standards for the carbon intensity of marine fuels based on a pre-determined baseline from 2027 to 2040 and beyond. The bill also requires vessels to submit an annual report to EPA which would include the carbon intensity of the fuel used for each covered voyage, the amount of fuel used for each covered voyage and the total GHG emissions measured in carbon dioxide equivalent for all covered voyages. The bill would also establish in-port marine vessel zero emission standards to eliminate no later than January 1, 2030, emissions of GHGs and air pollutants from vessels at anchor or at berth in US waters.

International Maritime Pollution Accountability Act (S 1920) – introduced on June 8, 2023, and referred to the Committee on the Environment and Public Works. This bill would impose a “pollution fee” of \$150 per ton of carbon emissions from fuel burned on the inbound transit for vessels over 10,000 FT calling at US ports as well as additional fees for nitrogen oxide at \$6.30 per pound, sulfur dioxide at \$18 per pound and particulate matter 2.5 at \$38.90 per pound. These requirements would sunset if the IMO implements a program that is equal to or greater than the amounts proposed in this bill. Revenues collected would be earmarked to programs toward modernizing the US Jones Act fleet with low carbon vessels, revitalizing and electrifying US shipbuilding and other programs addressing emissions from marine sources in port and coastal communities.

Ocean Shipping Antitrust Enforcement Act (HR 1696) – introduced on March 22, 2023, and referred to the Committee on Judiciary and the Committee on Transportation and Infrastructure (Subcommittee on Coast Guard and Maritime Transportation). This bill applies US federal antitrust laws to ocean common carriers but permits continuation for the current exemption for assessment agreements involving collectively bargained benefits. It also authorizes the FMC to comment on mergers and acquisitions of common carriers and marine terminal operators that are under review by the US Department of Justice's Antitrust Division.

Stop Harboring Iranian Petroleum (SHIP) Act (S 1829/HR 3774) – introduced in mid-2023 and referred to the Senate Committee on Foreign Relations and the House Committee on Foreign Relations, respectively. HR 3774 passed the House on November 3, 2023, and was received in the Senate on November 6, 2023. This bill requires the President to impose visa- and property-blocking sanctions against foreign persons that knowingly transport, process,

refine, or otherwise deal in petroleum and petroleum products (including petrochemicals) originating in Iran. These sanctions also extend to certain foreign persons associated with the sanctioned individual, such as adult family members and any entities owned by the sanctioned individual. The sanctions do not apply to the importation of goods.

Labor Petition to the US Trade Representative (USTR) Seeking Relief from China's Policies in the Maritime, Logistics and Shipbuilding Sector

In mid-March, 6 of the major labor unions filed a petition with the USTR seeking relief under the Trade Act of 1974 as amended for negative impacts of China's policies in the maritime, logistics and shipbuilding sector. The petition provides an overview of China's current strategies targeting their dominance in the global shipbuilding, a review of China's 5 year plans from 2001 through 2025 and alleges China's policies and practices are unreasonable and discriminatory through directed mergers, anticompetitive activities, government intervention to subsidize Chinese shipbuilding, favorable treatment and preferences for Chinese-built ships, controls on freight rates and capacity allocations and intellectual property theft.

The petition then explains how China's shipbuilding policies have burdened and restricted US commerce, citing the steady decline of US shipbuilding capability, declines in US market share, production and employment, declines in the US merchant fleet, declines in the provision of upstream equipment and production previously supplied to US shipyards and the threats to US national and economic security created by the steady decline in the US shipbuilding industry.

The petition requests specific remedies to correct these threats including assessment of a port fee on Chinese built ships that call in US ports, the creation of a Shipbuilding Revitalization Fund to help the domestic shipbuilding industry and its workers to compete on the global shipbuilding stage, addressing Chinese port and logistics infrastructure platforms and equipment and consultation with other major maritime nations of like minds.

It is difficult at this time to predict the outcome of this petition, but clearly the USTR must evaluate the petition and whether the remedies requested properly fit into the provisions contained in the Trade Act of 1974. CSA will be watching this process and will advise as soon as more information becomes available.

NOAA – North Atlantic Right Whale – Vessel Strike Risk Reduction Technology Workshop

This NOAA sponsored workshop was convened to identify existing and emerging technologies capable of reducing the risk vessel strikes pose to the North Atlantic Right Whale while maintaining vessel operational needs. The objective was to

describe technologies using attributes such as role in risk reduction, technological readiness, potential efficacy, impacts of weather and sea conditions on the identified technologies, cost, ability to verify/measure contribution to risk reduction and potential challenges to testing, adoption, and approval. In addition to sharing information and perspectives on current and emerging technologies, the workshop was intended to foster new and ongoing connections/dialogues among the diverse group of participants which included NOAA representatives, academia, and representatives from the maritime industry representative of large oceangoing vessels, fishing vessels, recreational vessels, and pilot boats. A full report of this meeting will be provided when it becomes available.

It should be recalled that last year NOAA proposed a new regulation which would add substantially to the geographic area covered by the current regulation as well as increasing the applicability of the speed restriction provisions to vessels 35 feet and above (down from the current 65 feet and above). CSA submitted comments opposing these changes for a variety of reasons and recommended that before the proposed regulation is finalized, NOAA should look at the variety of technologies that are available to detect and communicate actual locations of right whales which could be used by government agencies (NOAA, USCG) and private companies/vessels to assist the detection of right whales with timely communication of the whale locations to bridge personnel. In candor, we believe this workshop was held to “tick” the box that NOAA has looked at these technologies, many of which are at the emerging technology stage. It remains to be seen if NOAA delays promulgation of the final rule or changes the overly broad geographic range in the proposed regulation, pending further assessment of technologies which could serve to mitigate the risk of ship strikes to a level that is seen by NOAA to equate to the risk reduction which would occur if the proposed regulation were to be finalized.

U.S. Maritime Advisory

U.S. Maritime Alerts for reference regarding the increased risk to commercial vessels and cyber threats.

U.S. Maritime Advisory 2024-004 - [Southern Red Sea, Bab el Mandeb Strait, Gulf of Aden, Indian Ocean, Somali Basin, Arabian Sea, Gulf of Oman, Strait of Hormuz, and Persian Gulf -Threats to Commercial Vessels](#)