

MONTHLY REPORT for ICS

August 2024

NOTE TO THE READER: Reference to the Federal Register may be found at <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>.

References to legislation may be found at <https://www.congress.gov> at the center of the page.

US Activity - Welcome Back from Summer!

We hope that you all had an enjoyable summer and holidays wherever you may be. As is the case with most of us, summer has seen a marked drop off in maritime related actions in the US at the legislative and regulatory levels. However, there are a number of maritime related issues under discussion with activity levels expected to pick up during the Fall. The upcoming US Presidential election is occupying the vast majority of space/time in the news media as well as time spent by the President/Vice President and by Members of Congress. It is impossible to predict the outcome of the Presidential election which now, after much ado, will see current Vice President Harris run against former President Trump. As most are aware, President Biden, after (in our opinion) being pressured out of his original decision to seek a second term from pressure by Democratic leadership, was summarily replaced by Vice President Harris as the Democratic candidate for President. As a result of the uncertainty associated with the election, most legislative work on major bills including appropriations, will likely see delays in moving toward enactment of any significant legislation until after the election and until the new President is inaugurated. Likewise, if history is any indication, most regulatory initiatives will see similar delays in final publication (see VIDA update below). As always, we will keep you updated as we see relevant activity in the maritime sector.

US National Maritime Strategy

Over the past three decades, the US has experienced a significant reduction in the number of US flag vessels trading internationally as well as a significant reduction in US shipbuilding and repair capacity regarding both military and commercial vessels. These reductions are seen as a serious threat not only to the viability of the US flagged commercial maritime fleet but also to the ability of the US flag fleet to meet the needs of the US military sealift capacity should a forward deployment of military resources (human and equipment) be needed for a future conflict in a foreign nation. In addition, issues around mariner shortage/recruitment/retention have resulted in increasing concerns about the current shortage of US mariners to adequately crew US flag vessels if the US

flag international trading fleet were increased to levels necessary to meet both economic and military needs.

Under the leadership of MARAD, the US executive branch agencies are near completion of a National Maritime Strategy to address the concerns noted above and others. Also given the awareness of certain Members of Congress on these issues, we have been engaged in discussions with Congressional staff on what, if any legislative action, would be required to address these concerns. We expect comprehensive legislation to be introduced before the end of this Congress which will (1) establish national oversight and consistent funding for the US maritime industry, (2) provide support and incentive programs to promote an increase of US flag vessels in international trade, (3) provide support to the US shipbuilding industry and, (4) expand and strengthen maritime workforce development to boost mariner and shipyard worker recruitment, training and retention. When the legislation is introduced, CSA will provide the usual analysis of the proposals included in the bill and recommended US positions on these proposals.

Justice for Victims of Foreign Vessel Accidents Act (HR 9348)

US Representatives John Garamendi (D-CA) and Hank Johnson (D-GA) introduced the above referenced bill on August 18, 2024. Relevant provisions of this bill include a proposal to increase the liability for non-US flagged vessels in US waters to up to 10 times the current cap as defined as the value of the vessel, its cargo less expenses including damages and salvage costs. The current liability cap for US flag vessels would be maintained. If enacted, this change would retroactively apply to any incidents occurring on March 25, 2024 or later. It is no coincidence that the Francis Scott Key Bridge collapse resulting from the Dali incident occurred on March 26, 2024. Estimates of rebuilding of the bridge are currently estimated as \$1.7 to \$1.9 billion US dollars. CSA's position is to oppose this proposal on several grounds, not the least of which is whether this level of coverage is available in the global insurance marketplace. In lieu of this proposal, CSA could accept a proposal to conduct a study to examine the availability of this level of coverage in the global insurance market, an estimate of the cost of this increased coverage and what impact this increase would have on the transportation costs of goods imported to the US on non-US flag vessels and the ultimate increased cost to the end consumer.

Legislative Update

While new expected legislative actions are described in the sections above, the following is a summary list of bills on our watch list and previously described in past updates. This is offered as a convenient single place to gain a sense of the various marine related initiatives active in this Congressional session which will end on January 3, 2025. Please note that any introduced bill that does not become law during the Congress in which it is introduced is considered "dead"

when Congress is adjourned. For a “dead” bill to be enacted in a new Congress, it must be reintroduced (with a new number) and start the legislative process from the beginning.

US Coast Guard Authorization Act of 2024 (HR 7659)

The Coast Guard Authorization Act of 2024 was introduced in mid-March, referred to the House Committee on Transportation and Infrastructure and the House Sub-Committee on Coast Guard and Maritime Transportation. In late May, the bill was reported out of the Subcommittee and Committee and was passed by the House on May 14th. No further action by the Senate to date.

The bill contains the full text of the bill previously in the Senate as the American Offshore Workers Fairness Act (S 3038) which would modify 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 be either citizens of the US, a lawfully admitted alien or a citizen of the country in which the vessel is registered.

This bill also includes text supporting a “risk based” approach to inspection of tank vessels for the issuance of the required Certificate of Compliance as opposed to the current rigid requirement that all vessels subject to these requirements must be inspected by USCG inspectors, regardless of their past compliance histories.

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.

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. No further action since introduction and referral.

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). No further

action since introduction and referral.

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. Contents of this bill are now included in the USCG Authorization Act of 2024 (HR 7659) as noted above.

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 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. No further action since introduction and referral.

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. No further action since introduction and referral.

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. No further action since introduction and referral.

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. No further action since introduction and referral.

VIDA Regulations Update

As previously noted in our June 2024 update, CSA had been advised that the EPA regulations required by the Vessel Incidental Discharge Act (VIDA) have been forwarded by the EPA Administrator to the Office of Management and Budget (OMB) for final review. Depending on the complexity and length of the rulemaking, this process could take up to 3 months but even with that potential delay, EPA would meet the deadline established in the court's decision in the case filed by environmental NGOs. OMB review is the final step in the rulemaking process and when complete, the final rule will be published in the Federal Register. CSA is monitoring this issue and expects the final regulation to be published in September 2024 unless it is further delayed due to the Presidential election. It should be recalled that the EPA final regulations will not enter into force until the USCG has published its final rule as required by VIDA, which allows the USCG two years after EPA finalizes its rulemaking to complete the USCG rulemaking.

U.S. Maritime Advisories

- [U.S. Maritime Advisory 2024-010- GofA, Arabian Sea, Indian Ocean- Piracy/Armed Robbery/Kidnapping for Ransom](#)
 - [U.S. Maritime Advisory 2024-009- Strait of Hormuz, and Gulf of Oman- Iranian Illegal Boarding/Detention/Seizure](#)
 - [U.S. Maritime Advisory 2024-008- Southern Red Sea, Bab el Mandeb Strait, and Gulf of Aden-Houthi Attacks on Commercial Vessels](#)
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