



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington DC 20515

Peter A. DeFazio
Chairman
Katherine W. Dedrick
Staff Director

Sam Graves
Ranking Member
Paul J. Sass
Republican Staff Director

February 28, 2019

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Coast Guard and Maritime Transportation
FROM: Staff, Subcommittee on Coast Guard and Maritime Transportation
RE: Hearing on “U.S. Maritime and Shipbuilding Industries: Strategies to Improve Regulation, Economic Opportunities, and Competitiveness”

PURPOSE

The Subcommittee on Coast Guard and Maritime Transportation will hold a hearing on Wednesday, March 6, 2019, at 10:00 a.m., in 2253 Rayburn House Office Building to examine the state of the U.S. flag Maritime Industry. The Subcommittee will hear testimony from the U.S. Coast Guard, the Maritime Administration (MARAD), and representatives of the maritime industry.

BACKGROUND

U.S. Merchant Marine

The U.S. merchant marine is the fleet of U.S. documented (flagged) commercial vessels and civilian mariners that carry goods to and from, as well as within, the United States. These vessels are operated by a crew of U.S. licensed deck and engineering officers and unlicensed seafarers. During times of peace and war, the U.S. merchant marine acts as a naval auxiliary to deliver troops and war material to military operations abroad. Throughout our history, the Navy has relied on U.S. flagged commercial vessels to carry weapons and supplies and ferry troops to the battlefield. During Operations Enduring Freedom and Iraqi Freedom, U.S. flagged commercial vessels transported 90 percent of sustainment cargoes moved to Afghanistan and Iraq.¹

The merchant marine was formally recognized in statute with the passage of the *Merchant Marine Act of 1920* (46 U.S.C. Subtitle V). Section 50101(a) of title 46, United States Code, states that “[i]t is necessary for the national defense and the development of the domestic and foreign commerce of the United States that the United States have a merchant marine...” Sections 50101(b) and 51101 of title 46, United States Code, establish that “[i]t is the policy of the United States to

¹ Maritime Administrator Mark H. Buzby Testimony before the House Committee on Armed Services on March 8, 2018.

encourage and aid the development and maintenance of the merchant marine...” and that “merchant marine vessels of the United States should be operated by highly trained and efficient citizens of the United States...”

Currently, there are approximately 41,000² non-fishing related commercial vessels flagged and operating in the United States. The vast majority of these vessels are engaged in domestic waterborne commerce, generally referred to as the “Jones Act trade,” moving 115 million passengers³ and nearly \$300 billion worth of goods⁴ between ports in the United States on an annual basis. Each year, the domestic coastwise fleet carries nearly 900 million tons (877 million in 2016) of cargo⁵ through the inland waterways, across the Great Lakes, and along the Atlantic, Pacific, and Gulf of Mexico coasts.

The U.S. Government-owned fleet consists of 15 vessels operated by the Military Sealift Command and 46 vessels in the Maritime Administration’s (MARAD) Ready Reserve Force. Together, these vessels provide the initial surge of military capability while the commercial fleet is responsible for the ongoing sustainment.

Of the 41,000 U.S. flagged vessels, approximately 82 are operating in international commerce moving goods between U.S. and foreign ports.⁶ These vessels serve as a training and employment base for the civilian mariners who serve aboard the Government-owned fleet when they are called to deploy. The percentage of international commercial cargoes carried on U.S. flagged vessels has fallen from 25 percent in 1955 to approximately 1.5 percent today.⁷ Over the last 35 years, the number of U.S. flagged vessels sailing in the international trade dropped from 850 to 82 vessels. This decline corresponds with a decrease in U.S. mariners resulting in an estimated shortfall of 1,800 qualified mariners needed to crew the Government-owned fleet.⁸ Since the Department of Defense relies on civilian mariners to crew the Government-owned fleet through the Maritime Security Program (MSP) and the Voluntary Intermodal Sealift Agreement (VISA), maintaining a pool of highly trained mariners is imperative.

Within the international U.S. flag fleet, 60 vessels are enrolled in the Maritime Security Program. Under this program, militarily useful oceangoing commercial vessels each receive an annual operating stipend of \$5 million to provide military sealift for the United States Transportation Command within the Department of Defense (DoD).

² USACE, Waterborne Transportation Lines of the United States Calendar Year 2016, <http://www.navigationdatacenter.us/veslchar/pdf/WTLUS2016.pdf>.

³ National Strategy for the Marine Transportation System: Channeling the Maritime Advantage 2017-2022, http://www.cmts.gov/downloads/National_Strategy_for_the_Marine_Transportation_System_October_2017.pdf.

⁴ Economic Contribution of the US Tugboat, Towboat, and Barge Industry, <https://www.marad.dot.gov/wp-content/uploads/pdf/Econ-Impact-of-US-Tugboat-Towboat-and-Barge-Industry-lh-6-22-17.pdf>.

⁵ The U.S. Waterway System 2016 Transportation Facts & Information, <http://www.navigationdatacenter.us/factcard/FactCard2016.pdf>.

⁶ U.S. Department of Transportation Maritime Administration United States Flag Privately-Owned Merchant Fleet Report November 2017.

⁷ MARAD Calculation using CBP, Census, and commercial data sources.

⁸ Maritime Administrator Mark H. Buzby Testimony before the House Committee on Armed Services on March 8, 2018.

U.S. Shipbuilding Industry

Since the development of the clipper ships in the 1830s, the United States has a long tradition of producing some of the most modern and sophisticated vessels in the world. Today, U.S. shipyards of all sizes deliver a wide variety of commercial vessels including patrol boats, tugs, barges of all sizes, ferries, ocean going container and roll-on/roll-off (RORO) vessels, tankers, and oil and gas development support vessels, among many others. The U.S. commercial shipyard industry, as well as its supplier base, is essential to maintaining the government shipbuilding and ship repair industrial base.

Currently there are 117 shipyards in the United States, spread across 26 states that are classified as active shipbuilders (Appendix A). In addition, there are more than 200 shipyards engaged in ship repairs or capable of building ships, but not actively engaged in shipbuilding. In 2011, the U.S. private shipbuilding and repairing industry directly provided 107,240 jobs, \$7.9 billion in labor income, and \$9.8 billion in gross domestic product (GDP) to the national economy.

The federal government, including the U.S. Navy, U.S. Army, and U.S. Coast Guard, is an important source of demand for U.S. shipbuilders. While just one percent of the vessels delivered in 2011 (15 of 1,459) were delivered to U.S. government agencies, eight of the 11 large deep-draft vessels delivered were delivered to the U.S. government, and roughly 70 percent of U.S. shipbuilding revenues came from military shipbuilding and repair.⁹

U.S. Merchant Marine Laws and Programs

Since 1789, Congress has passed several laws to help keep the U.S. merchant marine competitive in the global economy and maintain a sealift and shipyard industrial capacity necessary for our national security. In addition to the Maritime Security Program, these laws and programs include the Jones Act, Cargo Preference, and the Military-to-Mariner Program.

Jones Act

The Jones Act first came into effect as part of the *Merchant Marine Act of 1920* to encourage the development of a strong merchant marine for both national defense and economic security. The Jones Act contains a number of provisions designed to encourage a robust U.S. shipbuilding capacity and employment opportunities for U.S. mariners:

1. U.S. Owned and Flagged - Chapter 551 of title 46, United States Code, requires that merchandise and passengers being transported by water between two points in the United States must travel on vessels owned by U.S. citizens and registered or “flagged” in the United States with an endorsement by the Coast Guard to participate in the coastwise trade;
2. U.S. Built - Chapter 121 of title 46, United States Code, requires vessels to be eligible for a coastwise endorsement to be built in the United States. Chapters 551 and 801 of title 46, United States Code, also place restrictions on the involvement of foreign

⁹ Figure 5, The Economic Importance of the U.S. Shipbuilding and Repairing Industry, Maritime Administration, November 2015.

owned, built, and flagged vessels in towing, dredging, and salvage activities in U.S. waters;

3. U.S. Crewed - Chapter 81 of title 46, United States Code, requires the master, all of the officers, and at least three-quarters of the crew to be U.S. citizens in order for a vessel to be flagged in the United States; and
4. Rebuild/Reflag Prohibition - Chapter 121 also prohibits vessels that were once eligible to engage in the U.S. coastwise trade and then later sold to a foreign citizen, documented under a foreign registry, or rebuilt outside the United States from engaging in the coastwise trade (a vessel may be considered rebuilt when work performed on its hull or superstructure constitutes more than 7.5 percent of the vessel's steelweight prior to the work).

The Coast Guard is responsible for reviewing applications from vessel owners seeking a coastwise endorsement to participate in the Jones Act trade. The Coast Guard determines whether the owners meet the U.S. citizenship requirements and whether the vessel was built in the United States, or the extent to which it was rebuilt outside the United States, before it will issue a coastwise endorsement.

U.S. Customs and Border Protection (CBP) determines whether the cargo to be moved on a vessel constitutes "merchandise" under section 55102 of title 46, United States Code. CBP also determines whether the movement of that cargo is transportation and subject to the Jones Act.

Section 501 of title 46, United States Code, provides a mechanism to waive the Jones Act and other vessel navigation and inspection laws. The Jones Act can be waived by the Secretary of the department in which the Coast Guard is operating under subsection 501(a), at the request of the Secretary of Defense and to the extent the Secretary of Defense considers it necessary in the interest of national defense. Under subsection 501(b), the Secretary of Homeland Security may waive requirements for the use of a coastwise endorsed vessel for the purposes of national defense, only after a determination by the MARAD Administrator that no U.S. flagged, owned, built, and crewed vessels are available. Both authorities have been used sparingly by the Executive Branch, and most commonly to respond to instances of natural disasters or national emergencies.

Preference Cargo Laws and Programs

The Cargo Preference Act of 1954 was designed to support an internationally trading commercial U.S.-flagged fleet. It requires that at least 50% of government impelled cargo is transported on privately owned U.S. flag ships. These vessels provide economic and national security by transporting cargo for the Department of Defense as well as serving as an employment base for the civilian mariners who are responsible for crewing the Government-fleet in times of war. Several Cargo Preference provisions promote the use of U.S. flagged vessels.

1. U.S. Owned and Financed – Chapter 553 of title 46, United States Code, requires that cargo procured, furnished, and financed by the U.S. government must travel on vessels

registered or “flagged” in the United States. This includes the movement of government personnel on official business. In 2008, statutory amendments expanded application to vessels financed by the federal government as well (P.L. 110-417, §3511).

2. International Aid - Chapter 553 of title 46, United States Code, requires at least 50% of the gross tonnage of U.S. agricultural commodities provided under U.S. food aid programs must ship via U.S.-flag commercial vessels. Section 55305 of title 46, United States Code, requires that ships eligible for food-aid cargoes must either be built in the United States, or, if built abroad, must have sailed under the U.S. flag for the previous three years. In 2012, chapter 553 was amended to reduce the percentage of food aid that must be shipped on U.S.-flag ships from 75% to 50%.

Shipping operators are responsible for reporting the movement of preference cargo within thirty days of loading goods by providing receipt of the shipment to MARAD, the administering authority (P.L. 91-469). Shippers are required to go to “great effort” to secure U.S.-flag service before using a foreign carrier, communicating with U.S.-flag carriers at the earliest possible time to ensure the greatest degree of coordination and to obtain the best freighted rates. If, through demonstrably diligent efforts, they are unable to find U.S.-flag service, MARAD can issue a determination of the non-availability of qualified U.S.-flag carriage.

Military-to-Mariner Program

A healthy maritime sector is vital to our economy and national security. A significant proportion of U.S. mariners are nearing retirement age, prompting a potential future shortage of available and experienced maritime professionals which could impact military sealift and U.S. maritime commerce. Trained mariners separating from military service (e.g., Navy, Marine Corps, Coast Guard, Army), could help compensate for a potential shortage. Maritime stakeholders are aware of this looming workforce attrition and have expressed concern that more should be done now to maximize the potential of this highly-trained, dedicated, and proficient labor pool.

Originally formed in 1992, the Merchant Marine Personnel Advisory Committee (MERPAC) was statutorily authorized in section 310 of the *Howard Coble Coast Guard and Maritime Transportation Act of 2014* (46 U.S.C. 8108). MERPAC advises the Secretary of Homeland Security, through the Commandant of the Coast Guard, on matters relating to personnel in the United States Merchant Marine including training, qualifications, certification, documentation, and fitness standards and other matters, as assigned. MERPAC meets twice a year and as of February 2017, has made 88 recommendations to streamline the process for military mariners to obtain their U.S. Merchant Mariner credentials and increase the participation of each military service in maintaining crosswalks and course approvals.

Section 305 of the *Howard Coble Coast Guard and Maritime Transportation Act of 2014* (P.L. 113-281) encouraged opportunities for sea service veterans by authorizing the Secretary of Homeland Security to issue an officer endorsement to a military mariner who: (1) has at least three months of qualifying service on a vessel of the uniformed services within the seven-year period immediately preceding the date of application; and (2) satisfies all other requirements for such a license. Section 305 also requires the Secretary to issue a sea service

letter to a member or former member of the Coast Guard within 30 days of making such a request for an officer endorsement.

Section 568 of the *National Defense Authorization Act for Fiscal Year 2017* (P.L. 114-328) requires the Secretaries of Defense and Homeland Security to report to Congress on how the DoD can better harmonize active duty training requirements for military service members with the credentialing requirements for similar civilian merchant marine industry positions. Additionally, the Secretaries were directed to identify and rectify gaps that exist between current military standards and commercial credentialing standards. The DoD transmitted the report to Congress on September 28, 2017.

International Convention on Standards of Training, Certification and Watchkeeping (STCW)

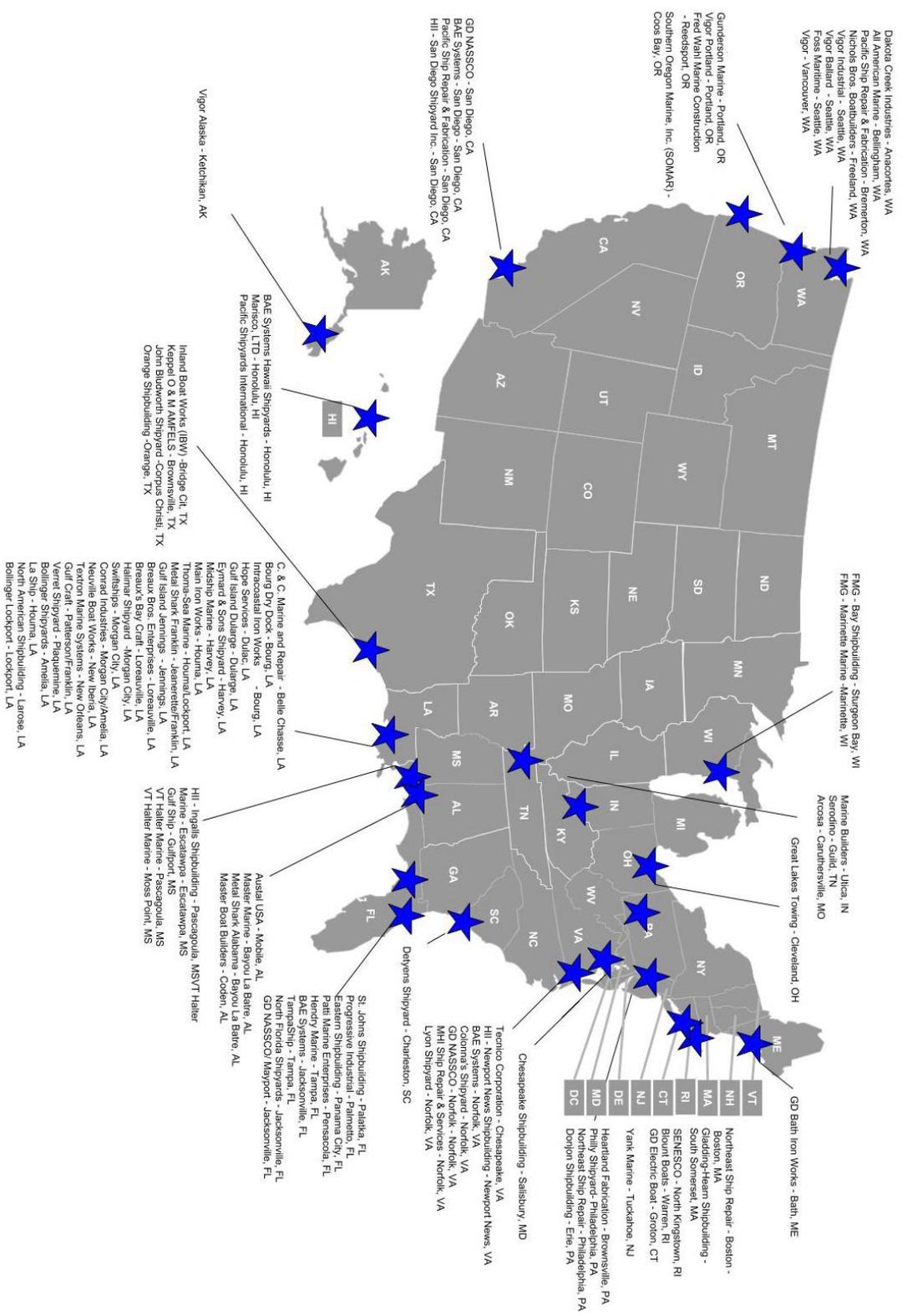
The STCW sets qualification standards for masters, officers, and watch personnel on seagoing merchant ships. The STCW was adopted in 1978 by conference at the International Maritime Organization (IMO) in London, and entered into force in 1984. The IMO implements the convention which is designed to ensure global standards are in place to train and certify seafarers among all flag states. The Coast Guard enforces STCW requirements as implemented under U.S. law for U.S. flagged carriers.

In 2010, after a two-year comprehensive review of the entire STCW Convention and the STCW Code, the IMO adopted the “Manila Amendments.” In 2011, the Coast Guard proposed changes to amend its regulations to fully harmonize and incorporate the requirements for national licenses with those of the Manila Amendments.¹⁰ On December 24, 2013, the Coast Guard published a Final Rule to incorporate the 2010 Amendments into U.S. regulations. Full implementation of the 2010 Amendments took effect on July 1, 2017.

The most significant amendments include new rest hours for seafarers, new certificate of competency grades, updated training requirements, mandatory security training, and additional medical standards.

¹⁰ August 1, 2011 Proposed Rule (RIN 1625-AA16) outlines the changes to U.S. regulations proposed by the Coast Guard.

U.S. Shipyard Geographic Distribution



Appendix A

WITNESS LIST

Panel I

Rear Admiral John Nadeau
Assistant Commandant for Prevention Policy
United States Coast Guard

Rear Admiral Mark H. Buzby, USN Ret.
Administrator
Maritime Administration

Panel II

Rear Admiral Michal Alfultis, PH.D
President
State University of New York Maritime College

Ms. Jennifer Carpenter
Executive Vice President & COO
The American Waterways Operators

Mr. John Crowley
President
National Association of Waterfront Employers

Mr. Michael Roberts
Senior Vice President and General Counsel
Crowley Maritime
on behalf of American Maritime Partnership

Mr. Augustin Tellez
Executive Vice President
Seafarers International Union
*on behalf of American Maritime Officers,
Masters, Mates and Pilots,
and The Seafarers International Union*