

**WRITTEN TESTIMONY OF  
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**BEFORE THE  
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION  
U.S. HOUSE OF REPRESENTATIVES**

**HEARING ON  
U.S. MARITIME AND SHIPBUILDING INDUSTRIES: STRATEGIES TO IMPROVE  
REGULATION, ECONOMIC OPPORTUNITIES AND COMPETITIVENESS**

**MARCH 6, 2019**

Good morning, Chairman Maloney, Ranking Member Gibbs, and members of the Subcommittee. My name is John Crowley, and I serve as President of the National Association of Waterfront Employers (NAWE), a role which I've held for 5 years. Thank you for the invitation to be here today, I appreciate the opportunity to discuss potential strategies to improve the regulation, economic opportunities, and competitiveness of our Nation's maritime industry.

The National Association of Waterfront Employers (NAWE) is the voice of the marine terminal operator and stevedore in Washington, representing interests in all of our Nation's major ports. Formed initially around common interests in providing compensation to injured longshoremen, NAWE was active in supporting maritime security regulation at our ports' facilities following 9/11. Today, NAWE's portfolio represents the full spectrum of port operators' interaction with the Federal Government, including guiding the development of national freight, infrastructure funding, port safety, security and environment, and workforce policies. Thus, through our work, NAWE ensures that there are open lines of communication between Congress, regulatory agencies, and the operators at our Nation's gateways to international commerce.

Importance of Port Operators

Port operators are a critical part of our maritime transportation industry. The port operators that NAWE represents hire labor, fund the purchase of equipment at U.S. ports, and most importantly serve as the critical link moving cargo between the sea and the land. It is the work of port operators that connects the products of American workers to the global economy and, in turn, ensures that global commerce constantly flows in support of our Nation's economy. As our Nation's economy continues to grow, so does the importance of our port operators. For example, according to the American Association of Port Authorities (AAPA) from 2007 to 2014, the total economic value that U.S. coastal port operators provided in terms of revenue to businesses, personal income, and economic output rose by 43% to \$4.6 trillion. This accounted for 26% of the Nation's \$17.4 trillion economy in 2014. Moreover, Federal, state, and local tax revenues generated by port-sector and importer/exporter revenues rose 51% during this period to \$321.1

billion. More than just serving as the gateway for the Nation's trade, port operators help to construct the foundation of our economic strength.

In addition to directly supporting the flow of the Nation's commerce, the presence of port operators in port communities spurs American job development and commercial activity both on the facility and outside the gate. From 2007 to 2014, jobs generated by port-related activities jumped 74% to 23.1 million in the United States. Personal wages and local consumption related to the port sector increased during this period to \$1.1 trillion, with the average annual salary of those directly employed by port-related businesses equating to \$53,723. Port operators therefore continue to create numerous high-paying American jobs, directly supporting our maritime communities.

Port operators' customers are the ocean carriers who move global commerce to and from the United States; however, their work has a direct positive impact on numerous other stakeholders. These stakeholders include the port authorities with whom they operate, tugs, pilots and marine exchanges moving vessels alongside the port operators' facilities, rail and motor carriers that move cargo inland, and – of course – the importers and exporters who rely on port operators to provide exceptional service to ensure that their products arrive on time and in condition to meet their customers' needs.

On our facilities, there are three distinct while simultaneous operations; waterside transfer, yard maintenance and landside transfer. Each operation faces changes of both customers and stakeholders, transportation modes, schedules of customers and stakeholders, volume, weather, and regulatory environment. The national economy is increasingly looking for just-in-time delivery and reductions in turn time for each operation are constantly demanded. Accordingly, port operators must be adaptive and forward-thinking, looking to leverage new technologies and advanced infrastructure to ensure that the operators' skilled workforce can meet stakeholders multiple and dynamic needs.

In addition to supporting the flow of commerce to ensure our Nation's economic security, port operators also serve a critical function in U.S. national security. Terminal operators' facilities, equipment, and workforce support the staging and throughput of military cargo, during both initial deployments and sustainment operations. In this manner, port operators serve as a critical first link in the line of communications to U.S. Armed Forces operating throughout the world. In this manner, Federal investment in port operator infrastructure is an investment in a national asset, supporting our collective economic and national security.

### The Need for Infrastructure Investment

Accordingly, today, our highest priority is to seek support for port infrastructure investment to assure an efficient supply chain, specifically focused on increasing port productivity. Investment in transportation infrastructure is a universally-recognized need across all modes. Numerous studies have shown the challenges facing our Nation's roads, utilities, and rail infrastructure, and the state of U.S. port infrastructure has been demonstrated to be of equal national concern. NAWA therefore encourages Congress to continue to recognize the critical importance and immeasurable value of this national asset.

We are thankful for Congress' leadership in providing \$900 million for the Better Utilizing Investments to Leverage Development (BUILD) Grants Program (a portion of which will go to port infrastructure projects), nearly \$300 million for the Port Infrastructure Development Program, and \$7 million for the Short Sea Transportation Program (America's Marine Highways) under the Consolidated Appropriations Act, 2019. NAWE is also thankful for Congress' efforts with regard to the Water Resources Development Act 2018 and the Harbor Maintenance Tax. As partners in the maritime industry we will all benefit and look forward to the support being delivered where it is most needed. However, despite this clear sign of support, there is much more work to be done. AAPA members have identified an additional \$32 billion in needed Federal investments in port landside connections and port operator facility infrastructure. This number will inevitably increase with the continued growth of global commerce and resulting demand for larger container vessels, demanding new infrastructure capability and capacity. Accordingly, with the Nation's many urgent transportation infrastructure needs, there remains a present strategic opportunity to make a statement on the enduring importance of ports, port operators, and the associated maritime communities.

The funding and support that Congress has established sets a strong foundation, but the Nation's port infrastructure needs will not be met with single-year funding, no matter how robust. Nor will port operator needs be met within the current legislative structure, which does not recognize a port operator's asset as national in nature unless they are adopted by a local governmental entity. Accordingly, NAWE urges Congress to support self-sustaining, permanent funding specifically aimed at port operators as well as traditional port infrastructure development. That is, we seek to ensure that private port operators have access to available Federal funding, both through public-private partnerships (P3s) and by ensuring direct port operator eligibility for funding opportunities.

Indeed, as the critical node between global commerce and our Nation's economy, port operators are uniquely positioned to understand the most pressing gaps in port infrastructure funding and development. U.S. port operators work off of unique configured footprints, with varied water and landward access, developing proprietary processes to optimize local productivity. While researchers review metrics that will gauge supply chain productivity, port operators are on the ground, with direct oversight of the equipment and infrastructure needs to best meet their customers' requirements and other aforementioned changing conditions. Accordingly, port operators are among the first to understand delays in both offshore ocean transport and landward freight mobility. They are constantly making adjustments in operation and require improved infrastructure to meet the growing demands of the U.S. economy.

Not only do port operators have critical information as to where investment is required, Federal investment will often have the largest impact when directly supporting port operators, because port operators have the largest direct impact on improving intermodal productivity. This Federal investment in port operators may result in – for example – the construction of new wharf or crane rails, shore-side power and associated infrastructure, electric cargo handling equipment, the purchase of larger and modernized ship to shore cranes, or the implementation of environmental or security requirements set by the Federal Government. Each of these investments – although developed through the existing port operator – is truly an investment in a national asset, which will always remain with the port facility in support of future operators and port operations.

In order to ensure continued, dedicated funding to the Port Infrastructure Development Fund – and further ensuring that port operators can access that funding – Congress can continue to lend its strong support of this critical national asset by identifying a continuing source of such funding. Moreover, by reviewing the effectiveness of dedicated funding sources – outside of annual appropriations – Congress can support the development of self-sustaining port infrastructure funding without drawing resources from other national priorities. NAWE’s members are eager to work with Congress to identify and develop these dedicated funding sources.

Additionally, beyond the programs funded by the Consolidated Appropriations Act, 2019, a strategic opportunity exists to leverage federal funding through loan guarantee programs. Although port infrastructure projects are eligible for loan guarantees under the Transportation Infrastructure Finance and Innovation Act (TIFIA) program, port funding is often secondary to other surface transportation modes, and port operators are not directly eligible. Dedicated and fully funded port infrastructure loan guarantees – similar to (or as an extension of) the Title XI Federal Ship Financing Program – could leverage Federal investment with private funds, leading to increased port infrastructure development. Through a focused strategy involving grant, loan, and loan guarantee funding – made available to port operators – Congress can ensure that appropriate investments are made today so that our Nation’s ports are prepared to meet the future needs of our Nation’s growing economy.

#### Opportunities for Regulatory Improvement

Because port operations are responsible for delivering a significant portion of our Nation’s diverse economy, Federal policy and oversight is understandably dispersed among various departments and agencies. As a clear example, the Federal Maritime Commission (FMC), U.S. Customs and Border Protection (CBP), Maritime Administration (MARAD), and U.S. Coast Guard (USCG) – among other agencies – all had a direct role to play in mitigating the impacts at port terminals associated with the 2017 bankruptcy of a major international ocean carrier.

While the need for multi-agency oversight is understandable, a strategic opportunity exists to better align and coordinate the roles, missions, and authorities of these agencies to better address the various dimensions of freight movement through port terminals. Port operators are often subject to inconsistent or redundant requirements, often even within the same Department (as evidenced by various facility security plan requirements by USCG and CBP). Committees such as the U.S. Maritime Transportation System National Advisory Committee (MTSNAC) provide a forum for stakeholder input to the Administration. However, a coordinating committee among the stakeholder agencies is needed to align the disparate agency authorities with stakeholder input, and to provide unified recommendations to Congress regarding needed support for port operations and infrastructure development as well as oversight.

In addition, while NAWE members work closely with Federal agencies in pursuit of the Nation’s policy objectives, additional opportunity to participate in regulatory development under the Administrative Procedure Act (APA) is sorely needed. Executive agencies continue to take an expansive view of their authority to issue “interpretive rules” and policy statements without public input. These rules and policy statements, even when under the guise of facilitated discussions, become conflated with compliance and adjudicatory actions. In contrast to the

current regulatory environment, in the immediate aftermath of the 9/11 attacks, NAWE members were invited to participate in the regulatory development in support of the Maritime Transportation Security Act (MTSA), which defined the operators' roles.

Today, operators have not been asked to participate, even though they have been called on to fulfill potential additional roles such as paying for radiation portal monitors and agency man-hours where neither the equipment nor the process has been modernized. Operators are expected to contribute to environmental policy objectives such as emissions from customer and stakeholder equipment, even to the point of support and compliance by customers and stakeholders. The role and expertise of key policymakers should be to modernize and support acquisition of equipment, driving policy goals so that the operator can focus on innovating with equipment and processes to improve productivity. If operators' first effort and investment is in public policy goals, there are less resources to devote to being productive and competitive. It is time to reestablish that collaborative spirit, while recognizing respective roles, under Congress's leadership. Indeed, Congress's oversight is essential to ensuring that regulations and policies affecting port operations are developed publicly and transparently in a manner that increases the competitiveness of the U.S. maritime transportation system in the global market.

Substantively, NAWE encourages a unified national policy and Federal oversight – with appropriate stakeholder input – to facilitate an efficient supply chain. NAWE members strive to achieve productive waterfront operations mindful of the national goals of safety, security, and environmental sustainability. Port operators therefore welcome meaningful regulations supporting the development of an efficient supply chain, while discouraging non-productive regulations that shift significant costs of these goals on private port operators and impede focus on achieving an efficient supply chain.

Finally, true to its historical beginnings, NAWE and its operator members seek Federal support for a process that delivers medical care returning the workforce to full health following injuries on the job and provides fair and reasonable compensation for its workforce while disabled. We also join in the bicameral and bipartisan recognition of the importance of retirement systems and look forward to being heard during these discussions.

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In aggregate, through the development port infrastructure funding opportunities accessible to port operators, coordinated agency oversight, and reasonable and transparent regulations, Congress and the Executive Branch can ensure today that U.S. ports and port operators are prepared to meet tomorrow's needs of the U.S. economy.

I appreciate this Subcommittee's continued support for U.S. port operators and look forward to working with you to develop strategies to improve the regulation of port operators and to develop new economic opportunities for our U.S. maritime transportation system. I am happy to respond to any questions you may have.