

**REVIEW OF FISCAL YEAR 2024 BUDGET REQUEST
FOR FEDERAL MARITIME TRANSPORTATION
PROGRAMS, AND IMPLEMENTATION OF THE
OCEAN SHIPPING REFORM ACT OF 2022**

(118-7)

HEARING
BEFORE THE
SUBCOMMITTEE ON
COAST GUARD AND MARITIME TRANSPORTATION
OF THE
COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES
ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

MARCH 23, 2023

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	RICK LARSEN, Washington (<i>Ex Officio</i>)

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

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MARCH 20, 2023

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Coast Guard and Maritime Transportation
FROM: Staff, Subcommittee on Coast Guard and Maritime Transportation
RE: Coast Guard and Maritime Transportation Subcommittee Hearing on
*“Review of Fiscal Year 2024 Budget Request for Federal Maritime
Transportation Programs, and Implementation of the Ocean Shipping
Reform Act of 2022”*

I. PURPOSE

The Subcommittee on Coast Guard and Maritime Transportation will hold a hearing on Thursday, March 23, 2023, at 2:00 p.m. ET in Room 2253 of the Rayburn House Office Building to receive testimony on the *“Review of Fiscal Year 2024 Budget Request for Federal Maritime Transportation Programs, and Implementation of the Ocean Shipping Reform Act of 2022.”* The Subcommittee will examine the President’s fiscal year (FY) 2024 budget request for Federal maritime transportation programs and progress on the implementation of the Ocean Shipping Reform Act of 2022 in preparation for consideration of annual authorizing legislation for the Maritime Administration (MARAD) and other maritime matters, including amendments to the Ocean Shipping Reform Act of 2022 (P.L. 117–146). The Subcommittee will hear testimony from MARAD and the Federal Maritime Commission (Commission or FMC) and receive written testimony from the National Oceanic and Atmospheric Administration (NOAA).

II. BACKGROUND

MARAD

MARAD was established in 1950 and is responsible for promoting and developing the maritime industry of the United States to meet the Nation’s economic and security needs.¹ MARAD administers financial assistance programs to build, promote, and operate the United States flag fleet; manages the disposal of Federal Government-owned vessels; regulates the transfer of United States documented vessels to foreign registries; maintains a reserve fleet of Federal Government-owned vessels essential for national defense; operates the United States Merchant Marine Academy; and administers a grant-in-aid program for state operated maritime academies and other financial assistance programs to support the United States maritime and

¹U.S. Dept. of Transp. (DOT), *A Short History of the Maritime Administration*, available at <https://www.maritime.dot.gov/outreach/history/short-history-maritime-administration> (last updated Oct. 26, 2018).

shipbuilding industries.² Rear Admiral Ann C. Phillips, United States Navy (Ret.), has served as the Administrator of MARAD since being sworn in on May 16, 2022.³

FMC

FMC was established in 1961 as an independent agency that regulates ocean-borne transportation in the foreign commerce of the United States.⁴ FMC protects shippers and carriers from restrictive or unfair practices of ocean carriers, including foreign-flagged carrier alliances.⁵ FMC also enforces laws related to cruise vessel financial responsibility to ensure cruise vessel operators have sufficient resources to pay judgements to passengers for personal injury or death or for nonperformance of a voyage.⁶

FMC is composed of five commissioners appointed for five-year terms by the President with the advice and consent of the Senate. The Honorable Daniel B. Maffei was designated Chairman of the Commission by President Biden in March 2021.⁷

NOAA

NOAA was established in 1970 as an agency within the Department of Commerce.⁸ NOAA's mission is to understand and predict changes in climate, weather, oceans, and coasts, to share that knowledge and information with others, and to conserve and manage coastal and marine ecosystems and resources.⁹ This mission includes responsibility for scientific coordination and support coordination to oil spill response and marine debris prevention, removal, research, response coordination, monitoring, and detection. Dr. Richard W. Spinrad was sworn in as the Under Secretary of Commerce for Oceans and Atmosphere and the Administrator of NOAA on June 22, 2021.¹⁰

III. MARAD BUDGET

The President's FY 2024 budget request for MARAD¹¹ as compared to the FY 2023 enacted funding level¹² is shown here:

²DOT, BUDGET ESTIMATES FISCAL YEAR 2024: MARITIME ADMINISTRATION (2023), available at https://www.transportation.gov/sites/dot.gov/files/2023-03/MARAD_FY_2024_President_Budget_508.pdf [hereinafter MARAD 2024 BUDGET ESTIMATES].

³DOT, *Rear Admiral, Ann C. Phillips, US Navy (Ret.)*, available at <https://www.maritime.dot.gov/office-administrator/key-personnel/rear-admiral-ann-c-phillips-us-navy-ret> (last updated May 16, 2022).

⁴46 U.S.C. § 46101.

⁵FMC, *About the FMC*, available at <https://www.fmc.gov/about-the-fmc/>.

⁶FMC, FEDERAL MARITIME COMMISSION FY 2024 BUDGET JUSTIFICATION (2023), available at <https://www.fmc.gov/wp-content/uploads/2023/03/FMCFY2024CongressionalBudgetJustification.pdf> [hereinafter FMC FY24 BUDGET JUSTIFICATION].

⁷FMC, *Daniel B. Maffei*, available at <https://www.fmc.gov/commissioners/daniel-b-maffei/>.

⁸NOAA, *Our History*, available at <https://www.noaa.gov/heritage/our-history> (last updated Jan. 6, 2023).

⁹NOAA, *About our agency*, available at <https://www.noaa.gov/about-our-agency> (last updated Mar. 2, 2023).

¹⁰NOAA, *Richard W. Spinrad, Ph.D.*, available at <https://www.noaa.gov/our-people/leadership/richard-w-spinrad-phd> (Sept. 9, 2022).

¹¹MARAD 2024 BUDGET ESTIMATES, *supra* note 2.

¹²*Consolidated Appropriations Act, 2023*, Pub. L. No. 117-328, available at <https://www.congress.gov/117/bills/hr2617/BILLS-117hr2617enr.pdf> [hereinafter 2023 CAA].

MARAD FY 2023 Enacted to FY 2024 President's Budget Request Comparison

(Dollars in Thousands)

Account	FY 2023 Enacted	President's FY 2024 Budget Request	FY 2023 to FY 2024 Change (\$)	FY 2023 to FY 2024 Change (%)
Operations and Training	\$ 213,181.00	\$ 289,773.00	\$ 76,592.00	36%
Maritime Environmental and Technical Assistance Program	\$ 6,000.00	\$ 8,500.00	\$ 2,500.00	42%
United States Marine Highway Program	\$ 10,000.00	\$ 11,000.00	\$ 1,000.00	10%
Assistance to Small Shipyards	\$ 20,000.00	\$ 20,000.00	\$ —	0%
Ship Disposal Program	\$ 6,000.00	\$ 6,021.00	\$ 21.00	0%
Maritime Security Program	\$ 318,000.00	\$ 318,000.00	\$ —	0%
Title XI—Administrative Expenses	\$ 3,000.00	\$ 3,020.00	\$ 20.00	1%
Title XI—Loan Guarantees	\$ —	\$ —	\$ —	0%
State Maritime Academy Operations	\$ 120,700.00	\$ 53,400.00	\$ (67,300.00)	–56%
Cable Security Fleet Program	\$ 10,000.00	\$ —	\$ (10,000.00)	–100%
Tanker Security Program	\$ 60,000.00	\$ 60,000.00	\$ —	0%
Port Infrastructure Development Program	\$ 212,203.51	\$ 230,000.00	\$ 17,796.49	8%
Total	\$ 963,084.51	\$ 980,214.00	\$ 17,129.49	2%

Funding levels for the Operations and Training Account and the Port Infrastructure Development Program do not include supplemental appropriations provided by the Infrastructure Investment and Jobs Act (P.L. 117–58).

The President requests \$980.2 million in FY 2024 for the activities of MARAD.¹³ This is a \$17.1 million increase (2 percent) from the FY 2023 enacted level.¹⁴

MARAD's FY 2024 budget request does not include funding for the:

- Maritime Transportation System Emergency Relief Authority;
- Cable Security Fleet Program; or
- Title XI Loan Guarantees.

OPERATIONS AND TRAINING

The President's FY 2024 budget requests \$289.8 million for Operations and Training, an increase of \$76.6 million (36 percent) beyond the FY 2023 enacted level.¹⁵ Included in this request is \$195.5 million for academic operating expenses and the Capital Asset Management Program of the United States Merchant Marine Academy (USMMA); \$8.5 million for the Maritime Environmental and Technical Assistance (META) program, which promotes the research, development, and demonstration of emerging technologies, practices, and processes that improve maritime industrial environmental sustainability; and \$11 million for the United States Marine Highway Program to support the development, expansion, and modernization of America's navigable waterways to reduce landside congestion and increase movement of freight by water.¹⁶ The authorization levels for these programs in the FY 2023 National Defense Authorization Act (NDAA) include \$112.8 million for USMMA operations; \$15 million for the META program; and \$15 million for the United States Marine Highway Program.¹⁷ Much of the \$76.6 million funding increase in the President's request can be attributed to the Capital Asset Management Program of USMMA. The FY 2024 funding request included for the United States Marine Highway Program is in addition to the \$25 million provided in the Infrastructure Investment and Jobs Act (P.L.117–58) that will remain available through the end of FY 2032.¹⁸ The Notice of Funding Opportunity for the FY 2023 round of the United States Marine Highway Program is currently available, and applications will be accepted through April 28, 2023.¹⁹

¹³ MARAD 2024 BUDGET ESTIMATES, *supra* note 2.

¹⁴ 2023 CAA, *supra* note 12.

¹⁵ See MARAD 2024 BUDGET ESTIMATES, *supra* note 2.

¹⁶ *Id.*

¹⁷ National Defense Authorization Act for Fiscal Year 2023, Pub. L. No. 117–263, available at <https://www.congress.gov/117/bills/hr/7776/BILLS-117hr7776enr.pdf> [hereinafter NDAA FY23].

¹⁸ Infrastructure Investment and Jobs Act, Pub. L. No. 117–58, 135 Stat. 429, available at <https://www.congress.gov/117/plaws/publ58/PLAW-117publ58.pdf> [hereinafter IJJA].

¹⁹ MARAD, 2023 Notice of Funding Opportunity for the U.S. Marine Highway Program, available at <https://cms.marad.dot.gov/grants/marine-highways/notice-funding-opportunity-america%E2%80%99s-marine-highway-projects>.

ASSISTANCE TO SMALL SHIPYARDS

The Assistance to Small Shipyards grant program provides capital assistance to privately-owned shipyards to expand and modernize shipbuilding capacity, efficiency, and competitiveness.²⁰ The program received \$20 million in FY 2023, and the President's FY 2024 budget request includes \$20 million.²¹ The program's authorized funding level was \$30 million in the FY 2023 NDAA.²² The application window for the FY 2023 round of the Small Shipyard Grant Program closed on February 27, 2023.²³

SHIP DISPOSAL

The President's budget requests \$6.02 million for the Ship Disposal Program, which is \$20,000 above the FY 2023 enacted level.²⁴ The program's authorized funding level was \$6 million in the FY 2023 NDAA.²⁵ This program provides for the proper disposal of outdated government-owned merchant ships maintained by MARAD in the National Defense Reserve Fleet. This request includes \$3 million to maintain the Nuclear Ship SAVANNAH in protective storage according to Nuclear Regulatory Commission license requirements, while decommissioning of the vessel's defueled nuclear reactor, components, and equipment is in progress.²⁶ This funding also includes \$3 million for Ship Disposal Program support, including salaries and overhead.²⁷ The National Defense Reserve Fleet is under the jurisdiction of the House Committee on Armed Services.

MARITIME SECURITY PROGRAM

The President requests \$318 million for the Maritime Security Program (MSP), which is equal to the FY 2023 enacted level, to maintain a viable commercial fleet that can support a United States presence in foreign commerce.²⁸ The program's authorized funding level was \$318 million in the FY 2023 NDAA.²⁹ Under this program, \$318 million in direct payments are allocated among up to 60 United States flagged vessel operators engaged in foreign trade. MSP vessel operators must keep their vessels in active commercial service and provide intermodal sealift support to the Department of Defense in times of war or national emergency. This budget request enables vessel operators to remain active and available for service, and results in \$5.3 million per stipend payment for each of the 60 ships in the program.³⁰ Allocating less than \$318 million annually for the program allows United States vessels to exit without penalty, and would likely also lead to vessels exiting the United States flag registry. MSP is under the jurisdiction of the House Committee on Armed Services.

TITLE XI—ADMINISTRATIVE EXPENSES

The President requests \$3.02 million for administrative expenses to carry out the guaranteed loan program, which is \$20,000 above the FY 2023 enacted level.³¹ \$3 million was authorized for Title XI administrative expenses in the FY 2023 NDAA.³² The Title XI Loan Guarantee Program helps to promote the growth and modernization of the United States shipyard industry by providing additional opportunities for vessel construction and modernization, including repowering that may otherwise be unavailable to ship owners.³³ The program is under the jurisdiction of the House Committee on Armed Services.

STATE MARITIME ACADEMIES

The President requests \$53.4 million for the six State Maritime Academies (SMA), which is a decrease of \$67.3 million (56 percent) compared to the FY 2023 enacted level.³⁴ This request includes \$19.2 million for vessel management, logistics, and

²⁰ See MARAD 2024 BUDGET ESTIMATES, *supra* note 2.

²¹ *Id.*

²² NDAA FY23, *supra* note 17.

²³ MARAD, *Small Shipyard Grant*, available at <https://www.maritime.dot.gov/grants-finances/small-shipyard-grants>.

²⁴ See MARAD 2024 BUDGET ESTIMATES, *supra* note 2.

²⁵ NDAA FY23, *supra* note 17.

²⁶ See MARAD 2024 BUDGET ESTIMATES, *supra* note 2.

²⁷ *Id.*

²⁸ *Id.*

²⁹ NDAA FY23, *supra* note 17.

³⁰ See MARAD 2024 BUDGET ESTIMATES, *supra* note 2.

³¹ *Id.*

³² NDAA FY23, *supra* note 17.

³³ See MARAD 2024 BUDGET ESTIMATES, *supra* note 2.

³⁴ *Id.*

maintenance oversight to support integration of National Security Multi-Mission Vessels (NSMV) into the fleet of SMA training vessels; \$22 million to maintain the six legacy SMA training vessels; \$6 million in direct payments to the schools; \$2.4 million for the Student Incentive Payment Program; and \$3.8 million for training ship fuel assistance.³⁵ SMA programs were authorized funding levels of \$53.8 million while the NSMV program was authorized \$75 million in the FY 2023 NDAA.³⁶ Much of the \$67.3 million funding decrease can be attributed to decreases in funding needed for the NSMV program. SMA Operations provide Federal assistance to the six SMAs, to help educate and train mariners and future leaders to support the United States marine transportation system. These graduates promote commerce in the United States and aid in the national defense by serving in the merchant marine. SMAs are under the jurisdiction of the House Committee on Armed Services.

TANKER SECURITY PROGRAM

The FY 2024 request for the Tanker Security Program (TSP) is \$60 million, an amount equal to the FY 2023 enacted level.³⁷ TSP provides direct payments to United States flagged product tankers capable of supporting national economic and Department of Defense contingency requirements. The program was authorized \$60 million per year through FY 2035 in the FY 2021 NDAA.³⁸ The purpose of this program is to provide retainer payments to carriers to support a fleet of militarily useful, commercially viable product tankers sailing in international trade, as well as assure access to a global network of intermodal facilities.³⁹ The program will also sustain a base of United States Merchant Mariners to support national security requirements during times of urgent need. TSP is under the jurisdiction of the House Committee on Armed Services.

PORT INFRASTRUCTURE DEVELOPMENT PROGRAM

The President requests \$230 million for the Port Infrastructure Development Program (PIDP), which is \$17.7 million above the FY 2023 enacted level.⁴⁰ This request is in addition to the \$450 million investment in advanced appropriations provided in FY 2024 under the Infrastructure Investment and Jobs Act (P.L. 117–58).⁴¹ PIDP was authorized at a funding level of \$750 million in the FY 2023 NDAA.⁴² PIDP provides grants for coastal seaports, inland river ports, and Great Lakes ports infrastructure to improve the safety, efficiency, or reliability of the movement of goods, and to reduce environmental impacts in and around ports.⁴³ The NOFO for the FY23 round of PIDP is currently available, and applications will be accepted through April 28, 2023.⁴⁴

IV. BUDGET FOR FMC

The President's FY 2024 budget request for FMC⁴⁵ as compared to the FY 2023 enacted funding level⁴⁶ is shown in the following table:

FMC FY 2023 Enacted to FY 2024 President's Budget Request Comparison

(Dollars in Thousands)

Account	FY 2023 Enacted	President's FY 2024 Budget Request	FY 2023 to FY 2024 Change (\$)	FY 2023 to FY 2024 Change (%)
Operations and Administrative Program	\$ 38,260.00	\$ 43,720.00	\$ 5,460.00	14%

³⁵ *Id.*

³⁶ NDAA FY23, *supra* note 17.

³⁷ See MARAD 2024 BUDGET ESTIMATES, *supra* note 2.

³⁸ NDAA FY23, *supra* note 17.

³⁹ See MARAD 2024 BUDGET ESTIMATES, *supra* note 2.

⁴⁰ *Id.*

⁴¹ IJA, *supra* note 18.

⁴² NDAA FY23, *supra* note 17.

⁴³ 46 U.S.C. § 54301.

⁴⁴ MARAD, 2023 Port Infrastructure Development Program (PIDP)—Notice of Funding Opportunity, available at <https://www.maritime.dot.gov/office-port-infrastructure-development/port-and-terminal-infrastructure-development/2019-port-1> (last updated Feb. 9, 2023).

⁴⁵ See FMC FY24 BUDGET JUSTIFICATION, *supra* note 6.

⁴⁶ CAA 2023, *supra* note 12.

The President requests \$43.7 million in FY 2024 for the activities of the FMC, a \$5.5 million (14 percent) increase from the FY 2023 enacted level, and equal to the FY 2024 authorized level.⁴⁷ The request would permit the funding of salaries and benefits for 163 full-time equivalents, a 5.29 percent projected pay raise for personnel, rent and building security needs, and information technology system improvements.⁴⁸

IMPLEMENTATION OF THE OCEAN SHIPPING REFORM ACT OF 2022

The Ocean Shipping Reform Act of 2022 (P.L. 117–146) strengthened FMC authorities to promote the growth and development of United States exports through an ocean transportation system that is competitive, efficient, and economical.⁴⁹ This legislation authorizes appropriations for FMC through FY 2025; sets standards for detention and demurrage charges and sets penalties for charges deemed inaccurate; allows FMC to set minimum contract standards for ocean shipping service contracts to protect United States shippers from actions which leave export cargoes stranded at United States ports; and increases protections for domestic shippers from retaliation by foreign ocean carriers.⁵⁰

The Commission is currently taking actions to enact the requirements of this law. Since the Act’s enactment on June 16, 2022, FMC has:

- Provided industry guidance on filing charge complaints with respect to charges assessed by a common carrier that the complainant believes may not comply with statute.⁵¹
- Provided industry guidance on the applicability of self-executing provisions of the law to common carriers, including compliance with demurrage and detention billing practices.⁵²
- Solicited public comments on a new data collection system for containerized vessel imports and exports to and from the United States.⁵³
- Solicited public comments on a proposed rule requiring inclusion of specific information on demurrage and detention invoices.⁵⁴
- Solicited public comments on a proposed rule that would define unreasonable refusal to deal or negotiate with respect to vessel space accommodation provided by an ocean common carrier.⁵⁵
- Established the Bureau of Enforcement, Investigations, and Compliance for improved effectiveness of the Commission’s enforcement and compliance activities.⁵⁶
- Entered into an agreement with the National Academies of Sciences, Engineering, and Medicine to carry out a study and develop best practices for the efficient supply of chassis for transporting intermodal containers.⁵⁷
- Published on their website the “Fact Finding Investigation 29 Final Report on the Effects of the COVID–19 Pandemic on the U.S. International Ocean Supply Chain: Stakeholder Engagement and Possible Violations of 46 U.S.C. 41102(c)”.⁵⁸

⁴⁷ *Ocean Shipping Reform Act of 2022*, Pub. L. No. 117–146, 136 Stat. 1272 available at <https://www.congress.gov/117/plaws/publ146/PLAW-117publ146.pdf> [hereinafter *OSRA 2022*].

⁴⁸ See FMC FY24 BUDGET JUSTIFICATION, *supra* note 6.

⁴⁹ *OSRA 2022*, *supra* note 47.

⁵⁰ *Id.*

⁵¹ FMC, *Industry Advisory—Interim Procedures for Submitting “Charge Complaints” Under 46 U.S.C. 41310*, (July 14, 2022), available at <https://www.fmc.gov/industry-advisory-interim-procedures-for-submitting-charge-complaints/>.

⁵² FMC, *Industry Advisory—Applicability of Provision Contained in PL 117–146*, (June 24, 2022), available at <https://www.fmc.gov/industry-advisory-applicability-of-provisions-contained-in-pl-117-146/>.

⁵³ Agency Information Collection Activities: 30-Day Public Comment Request, 87 Fed. Reg. 75629, (Jan. 9, 2023), available at <https://www.govinfo.gov/content/pkg/FR-2022-12-09/pdf/2022-26804.pdf>.

⁵⁴ FMC, *Proposing New Demurrage & Detention Billing Requirements*, (Oct. 7, 2022), available at <https://www.fmc.gov/fmc-proposing-new-demurrage-detention-billing-requirements/>.

⁵⁵ FMC, *FMC Seeking Public Comment on Unreasonable Refusal to Deal Proposed Rule* (Sept. 13, 2022), available at <https://www.fmc.gov/fmc-seeking-public-comment-on-unreasonable-refusal-to-deal-proposed-rule/>.

⁵⁶ FMC, *New FMC Enforcement Structure*, (July 29, 2022), available at <https://www.fmc.gov/new-fmc-enforcement-structure/>.

⁵⁷ National Academies of Sciences, Engineering, and Medicine. *Best Practices for the Efficient Supply of Chassis for Transporting Intermodal Containers*, available at <https://www.nationalacademies.org/our-work/best-practices-for-the-efficient-supply-of-chassis-for-transporting-intermodal-containers#sectionContact>.

⁵⁸ FMC, *Fact Finding Investigation 29 Final Report*, available at <https://www2.fmc.gov/readingroom/docs/FFno29/Fact%20Finding%2029%20Final%20Report.pdf>.

V. BUDGET FOR NOAA'S MARINE DEBRIS PROGRAM

NOAA's marine debris and oil spill response operations are funded out of the Agency's Coastal Science, Assessment, Response, and Restoration Account. NOAA's FY 2024 Congressional Budget Justification documents and FY 2023 spending plans are pending release and unavailable at this time. More broadly, the President's FY 2024 budget request includes \$6.8 billion for NOAA, an increase of \$450.5 million above the FY 2023 enacted level.⁵⁹

VI. WITNESSES

- Rear Admiral Ann C. Phillips (Ret.), Administrator, Maritime Administration
- The Honorable Daniel B. Maffei, Chairman, Federal Maritime Commission
- *Written testimony provided by:* Dr. Richard W. Spinrad, Under Secretary of Commerce for Oceans and Atmosphere, and Administrator, National Oceanic and Atmospheric Administration

⁵⁹ NOAA, *NOAA's FY 2024 budget: Building a climate-ready nation*, available at <https://www.noaa.gov/news-release/noaa-fy-2024-budget-building-climate-ready-nation>.

REVIEW OF FISCAL YEAR 2024 BUDGET REQUEST FOR FEDERAL MARITIME TRANSPORTATION PROGRAMS, AND IMPLEMENTATION OF THE OCEAN SHIPPING REFORM ACT OF 2022

THURSDAY, MARCH 23, 2023

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COAST GUARD AND
MARITIME TRANSPORTATION,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to call, at 2:27 p.m. in room 2253 Rayburn House Office Building, Hon. Daniel Webster (Chairman of the subcommittee) presiding.

Mr. WEBSTER OF FLORIDA. The Subcommittee on Coast Guard and Maritime Transportation will come to order.

I ask unanimous consent that the chairman be authorized to declare a recess at any time during today's hearing.

Without objection, so ordered.

As a reminder, if Members submit a document, they need to email it to us at DocumentsTI@mail.house.gov.

I now recognize myself for the purpose of an opening statement for 5 minutes.

OPENING STATEMENT OF HON. DANIEL WEBSTER OF FLORIDA, CHAIRMAN, SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION

Mr. WEBSTER OF FLORIDA. Today, we convene to review the fiscal year 2024 budget request for Federal maritime transportation programs administered by the Maritime Administration, the Federal Maritime Commission, and NOAA.

I would like to welcome our guests, Rear Admiral Ann Phillips, Administrator of the Maritime Administration, and the Honorable Dan Maffei, Chairman of the Federal Maritime Commission.

MARAD serves as the agency within the Department of Transportation responsible for promoting the U.S. merchant marine and the domestic maritime industry. In this pursuit, they are responsible for the administration of programs that serve to strengthen national security and ensure a more efficient maritime transportation system.

This subcommittee shares jurisdiction of MARAD with the House Armed Services Committee, with us overseeing the nonnational security aspects of the merchant marine. This includes the Port In-

frastructure Development Program known as PIDP that provides grants for coastal seaports, inland river ports, and Great Lakes ports infrastructure to improve the safety, efficiency, and reliability of the movement of goods.

The President's budget request for fiscal year 2024 includes \$230 million for this program, which is in addition to the \$450 million in advanced appropriations the program received through the Infrastructure Investment and Jobs Act.

Though this program is intended to help optimize and improve port operations, I am concerned with the program's ability to fully realize this goal, due to language Congress has routinely included in the program's authorization that prohibits the use of funds for automated cargo handling equipment. I am also concerned that MARAD has included this policy in the notice of funding opportunity for the United States Marine Highway Grant program, which has no legislative requirement specifying this prohibition.

It is unfortunate that we have drastically limited the impact these programs can have due to this policy, and I look forward to hearing from MARAD on the role automation plays in improving port operations for our Nation's supply chains.

Additionally, MARAD oversees the permitting process for deep-water ports, its sole permitting program. Current applicants have experienced very long delays in the processing of their applications, and in fact, all five pending applications are stalled due to MARAD's convoluted process. I hope we can work with MARAD to ensure that these applications are processed in a timely fashion as is directed under law.

We also have FMC with us today to discuss the work being done to implement provisions of the Ocean Shipping Reform Act of 2022, known as OSRA. FMC is an independent agency responsible for the regulation of oceanborne transportation in the foreign commerce of the United States.

The supply chain crisis that emerged following the onset of the COVID-19 pandemic led to massive increases in ocean shipping costs, long cargo wait times at ports, and an imbalance in maritime trade flows leading to the frequent export of empty containers from the U.S. rather than moving inland to be filled with domestically produced goods. Congress, in response, passed the Ocean Shipping Reform Act of 2022 to help address many of these challenges facing U.S. exporters.

I applaud FMC for working expeditiously to implement the many provisions included in this law, unlike the United States Coast Guard that often fails to carry out the legislative directives of this subcommittee. I look forward to hearing from Chairman Maffei today on FMC's progress in implementing OSRA.

Lastly, I would like to note that although they are not here in person, we also received written testimony from NOAA regarding their Marine Debris Programs. NOAA is responsible for providing support to oilspill response and marine debris prevention, removal, research, response coordination, monitoring, and detection.

I thank NOAA for providing us with their written testimony, and I thank our witnesses for being here today. I look forward to hearing their testimony.

[Mr. Webster of Florida's prepared statement follows:]

**Prepared Statement of Hon. Daniel Webster of Florida, Chairman,
Subcommittee on Coast Guard and Maritime Transportation**

Today, we convene to review the fiscal year 2024 budget requests for federal maritime transportation programs administered by the Maritime Administration, the Federal Maritime Commission, and the National Oceanic and Atmospheric Administration. I'd like to welcome our witnesses—Rear Admiral Ann Phillips, Administrator of the Maritime Administration, and the Honorable Dan Maffei, Chairman of the Federal Maritime Commission.

MARAD serves as the agency within the Department of Transportation responsible for promoting the U.S. Merchant Marine and the domestic maritime industry. In this pursuit, they are responsible for the administration of programs that serve to strengthen national security and ensure a more efficient maritime transportation system.

This subcommittee shares jurisdiction of MARAD with the House Armed Services Committee, with us overseeing the non-national security aspects of the merchant marine. This includes the Port Infrastructure Development Program, also known as PIDP, that provides grants for coastal seaports, inland river ports, and Great Lakes ports infrastructure to improve the safety, efficiency, and reliability of the movement of goods.

The President's budget request for FY24 includes \$230 million for this program, which is in addition to the \$450 million in advanced appropriations the program received through the Infrastructure Investment and Jobs Act.

Though this program is intended to help optimize and improve port operations, I am concerned with the program's ability to fully realize this goal due to language Congress has routinely included in the program's authorization that prohibits the use of funds for automated cargo handling equipment. I am also concerned that MARAD has included this policy in the notice of funding opportunity for the United States Marine Highway Grant Program, which has no legislative requirement specifying this prohibition.

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Additionally, MARAD oversees the permitting process for deep water ports, its sole permitting program. Current applicants have experienced very long delays in the processing of their applications and in fact, all five pending applications are stalled due to MARAD's convoluted process. I hope that we can work with MARAD to ensure that these applications are processed in a timely fashion as is directed under law.

We also have FMC here with us today to discuss the work being done to implement provisions from the Ocean Shipping Reform Act of 2022, also known as OSRA. FMC is an independent agency responsible for the regulation of ocean-borne transportation in the foreign commerce of the U.S.

The supply chain crisis that emerged following the onset of the COVID-19 pandemic led to massive increases in ocean shipping costs, long cargo wait times at ports, and an imbalance in maritime trade flows leading to the frequent export of empty containers from the U.S. rather than moving inland to be filled with domestically produced goods. Congress in response passed the Ocean Shipping Reform Act of 2022 to help address many of these challenges facing U.S. exporters.

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Lastly, I would like to note that though they are not here in person to testify, we also received written testimony from the National Oceanic and Atmospheric Administration regarding their marine debris programs. NOAA is responsible for providing support to oil spill response and marine debris prevention, removal, research, response coordination, monitoring, and detection.

I thank NOAA for providing us their written testimony and I thank our witnesses for being here today. I look forward to hearing their testimony.

Mr. WEBSTER OF FLORIDA. I ask unanimous consent that Members not on the subcommittee be allowed to participate in the hearing.

Without objection, that is adopted.

I now recognize Ranking Member Carbajal for 5 minutes for an opening statement.

Mr. CARBAJAL. Thank you, Mr. Chair. I am going to yield to Ranking Member Larsen. He has somewhere to go, and he is the ranking member, if that is OK.

Mr. WEBSTER OF FLORIDA. OK. That recognition is accepted. And Mr. Larsen, you are recognized.

OPENING STATEMENT OF HON. RICK LARSEN OF WASHINGTON, RANKING MEMBER, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. LARSEN OF WASHINGTON. Thanks. Thanks, Mr. Chair, and I want to thank the ranking member for indulging me. I want to thank you for scheduling this hearing for the fiscal year 2024 budget requests of MARAD and the FMC, the first in a series that this committee will hold to inform us on maritime issues.

MARAD's purpose is to promote the U.S. maritime industry, while the FMC protects consumers and monitors shipping company practices. Ocean shipping is dominated by foreign shipping companies, with U.S.-flagged operations comprising less than 2 percent of imports and exports. Supply chain crises and ongoing international conflicts demonstrate the need for a robust U.S. maritime presence.

The President's fiscal year 2024 budget request for MARAD includes a 2-percent increase and a 14-percent increase for FMC, both welcomed increases. Under MARAD, this year's budget request includes an increase for the United States Merchant Marine Academy to address long-term infrastructure needs and culture changes around sexual assault and sexual harassment.

Investment in the U.S. maritime industry is long overdue, and for years, we faced a mariner shortage as the incumbent workforce ages out and industry struggles to appeal to younger Americans. Admiral Phillips, I do expect to hear how MARAD is promoting the industry and getting ahead of this particular growing issue.

I would be remiss if I did not bring up the work Admiral Phillips and Deputy Administrator Lessley have done to address sexual assault and harassment, both at the U.S. Merchant Marine Academy and across the commercial industry. Sexual assault and harassment have no place in our society, and every mariner deserves respect and deserves to feel safe at sea. The industry will not grow if workers do not feel safe and welcome.

The President's budget includes increases for MARAD's Marine Highway Program and the Port Infrastructure Development Program as well. Infrastructure investments in U.S. seaports and their intermodal connections, both on the land and in the water, provide opportunities to bolster our economy, create and sustain jobs, and enhance our international competitiveness. A strong and sustainable Federal investment in seaport-related infrastructure is critical to the economic and environmental health of the United States.

Small shipyards are vital to maintaining an industrial shipbuilding base and a U.S. maritime presence while providing rewarding jobs to local communities. As technology evolves and industry invests in the development of alternative fuels, programs like the Small Shipyard Grant program will be essential in ensuring our shipyards can bring these new fuels and technology online.

And despite an increase in authorized amounts, I am very disappointed the President's budget includes only \$20 million for this program, which is the same as last year's budget request.

Last Congress, we passed the Bipartisan Infrastructure Law, which included \$2.25 billion over 5 years for the Port Infrastructure Development Program, the largest investment since the launch of that important initiative. These grants will bring U.S. ports into the 21st century and provide needed funds to reduce emissions and strengthen the supply chain. Since 2019, over \$6 billion has been requested by applicants for these grants, demonstrating the demand for them.

Between 2010 and 2019, China invested billions in domestic and foreign ports to broaden its global maritime influence. Economic and national security relies on maritime power. The Government of China understands this, and it is time that we do, too.

Small ports are part of the lifelines to our local communities and are a critical part of the supply chain that can ease congestion at our large ports. That is why it is so important that we get robust funding in the PIDP.

I want to commend Admiral Phillips and MARAD for their work on the BIL funding and look forward to seeing what projects are selected this fall.

Last Congress, this committee passed the Ocean Shipping Reform Act of 2022, and under Chairman Maffei's leadership, the FMC has been quick to implement new requirements for ocean carriers and investigate unfair shipping practices. The FMC will require more funding and personnel to fully address the new investigative and prosecutorial authorities that we provided it under law. I am heartened to see the President understands this and included in the budget request a 14-percent increase for FMC.

Since the passage of OSRA in 2022, container prices have fallen, ships lingering offshore have dropped 30 percent, and FMC has improved the reporting process, leading to an increase in charge complaints from American businesses, one of which resulted in a \$2 million settlement over findings that the shipping company knowingly and willfully violated the Shipping Act. These actions are important.

Finally, I will just say the committee has jurisdiction over the Marine Debris Program at NOAA. Through this program, NOAA determines the sources of, reduces, prevents, and removes marine debris from our oceans to mitigate its impact on the marine environment and navigation safety. This is a critical program for the Pacific Northwest, for the Puget Sound, and the Salish Sea. I look forward to reauthorizing that, as well.

[Mr. Larsen of Washington's prepared statement follows:]

**Prepared Statement of Hon. Rick Larsen of Washington, Ranking Member,
Committee on Transportation and Infrastructure**

Mr. Chairman, thank you for scheduling this afternoon's hearing to review the Fiscal Year 2024 budget requests of the Maritime Administration and the Federal Maritime Commission—the first in a series of hearings to inform the Committee ahead of this year's Coast Guard Authorization Act.

The Maritime Administration's purpose is to promote the United States maritime industry while the Federal Maritime Commission protects consumers and monitors shipping company practices.

Ocean shipping is dominated by foreign shipping companies with U.S.-flagged operations comprising less than 2 percent of imports and exports. The supply chain crisis and ongoing international conflicts demonstrate the need for a robust U.S. maritime presence.

The President's fiscal year 2024 budget request for the Maritime Administration includes a 2 percent increase and a 14 percent increase for the Federal Maritime Commission—both welcomed increases.

Under MARAD, this year's budget request includes an increase for the United States Merchant Marine Academy to address long-term infrastructure needs and culture changes around sexual assault and sexual harassment.

Investment in the U.S. maritime industry is long overdue. For years, we have faced a mariner shortage as the incumbent workforce ages out and the industry struggles to appeal to younger Americans.

Admiral Phillips, I expect to hear how MARAD is promoting the industry and getting ahead of this growing issue.

I would be remiss if I did not bring up the work Admiral Phillips and Deputy Administrator Lessley have done to address sexual assault and sexual harassment both at the United States Merchant Marine Academy and across the commercial industry. Sexual assault and harassment have no place in our society. Every mariner deserves to be respected and feel safe out at sea. The industry will not grow if its workers do not feel safe and welcome.

The President's budget includes increases for MARAD's Marine Highway Program and the Port Infrastructure Development Program.

Infrastructure investments in U.S. seaports and their intermodal connections—both on the land and in the water—provide opportunities to bolster our economy, create and sustain jobs and enhance our international competitiveness.

Strong and sustainable federal investment in seaport-related infrastructure is critical to the economic and environmental health of the nation.

Small shipyards are vital to maintaining an industrial shipbuilding base and U.S. maritime presence while providing rewarding jobs to local communities.

As technology evolves and the industry invests in the development of alternative fuels, programs like the Small Shipyard Grant Program will be essential in ensuring our shipyards can bring these new fuels and technology online. Despite an increase in authorized amounts, I'm disappointed the President's budget includes only \$20 million for this program, which is the same as last year's budget request.

Last Congress, we passed the Bipartisan Infrastructure Law which included \$2.25 billion over 5 years for the Port Infrastructure Development Program—the largest investment since the launch of that important initiative. These grants will bring U.S. ports into the 21st century, providing needed funds to reduce emissions and strengthen the supply chain.

Since 2019, over \$6 billion has been requested by applicants for Port Infrastructure Development grants, demonstrating the demand for port infrastructure investments and the importance of the funding in the Bipartisan Infrastructure Law.

Between 2010 and 2019, China invested billions in domestic and foreign ports to broaden their global maritime influence. Economic and national security relies on maritime power. China understands this and it is time we do too.

Small ports are lifelines to local communities and are a critical part of the supply chain that can ease congestion at larger ports. That is why it is so important robust funding is allocated for small ports in the Port Infrastructure Development Program.

In my district, the Swinomish Port Authority—a small port and one of the few Tribal-run port authorities—received \$11 million to fund a master plan for the port and begin the design and engineering of a new commercial pier. The local impact of this project is immeasurable.

I commend Admiral Phillips and the Maritime Administration for their work in awarding the Bipartisan Infrastructure Law funding, and I look forward to seeing what projects are selected this fall.

Last Congress, this committee passed the Ocean Shipping Reform Act of 2022. Under Chairman Maffei's leadership, the Federal Maritime Commission has been quick to implement new requirements for ocean carriers and to investigate unfair shipping practices.

The Federal Maritime Commission will require more funding and personnel to fully address the new investigative and prosecutorial authorities provided under the law. I am heartened to see that the President understands this and included in his budget request a 14 percent increase for the Federal Maritime Commission.

Since passage of the Ocean Shipping Reform Act of 2022, container prices have fallen, ships lingering offshore have dropped 30 percent and the FMC has improved the reporting process leading to an increase in charge complaints from American businesses. One of which resulted in a \$2 million settlement over findings that the shipping company knowingly and willfully violated the Shipping Act. This means lower costs for consumers thanks to quick action by Congress and the President.

The Committee also has jurisdiction over the Marine Debris Program at the National Oceanic and Atmospheric Administration (NOAA). Through this program, NOAA determines the sources of, reduces, prevents and removes marine debris from our oceans to mitigate its impact on the marine environment and navigation safety. I'm interested in bolstering the work of the Marine Debris Program as part of the Coast Guard Authorization.

I look forward to engaging our witnesses on the administration's ongoing work to strengthen our supply chain and grow the United States commercial maritime fleet.

Mr. LARSEN OF WASHINGTON. And with that, I thank the chair and the ranking member for the indulgence. I will be back for questions. I don't yield any time back, because I have none to yield back. Thank you.

Mr. WEBSTER OF FLORIDA. OK. Well, Mr. Carbajal, do you want to go ahead with your statement?

Mr. CARBAJAL. I am glad to go, but I want to yield to your Republican that is on your side as the next Member. I don't want to take advantage. So, since you let my ranking member go, I am OK with the next Republican.

VOICE. We only do an opening statement for the chairman.

Mr. CARBAJAL. So, I can go next? OK, great. Thank you. I just want to do what is right.

OPENING STATEMENT OF HON. SALUD O. CARBAJAL OF CALIFORNIA, RANKING MEMBER, SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION

Mr. CARBAJAL. Thank you, Mr. Chairman, for scheduling today's hearing, "Review of Fiscal Year 2024 Budget Request for Federal Maritime Transportation Programs, and Implementation of the Ocean Shipping Reform Act of 2022." Well, that was a mouthful.

And I want to congratulate you, Mr. Chairman, on being appointed chairman of this subcommittee. I look forward to working with you and finding as much common ground on a bipartisan basis as possible.

I look forward to hearing from Chair Maffei of the Federal Maritime Commission, or FMC, and Administrator Phillips of the Maritime Administration, or MARAD, as we call it, on the President's budget request and their agencies' priorities for the upcoming year.

I am particularly eager to hear from the FMC about its implementation of the Ocean Shipping Reform Act, which passed out of this subcommittee last Congress before becoming law, and how its new authorities will help maintain a resilient and efficient supply chain. I want to remind us it passed in a bipartisan fashion.

As the Federal agency tasked with ensuring fairness in international shipping, the FMC has key authorities which allow it to safeguard transparent and equitable maritime commerce. As the recent supply chain issues have demonstrated, stability in international shipping is integral to a strong economy.

During the COVID-19 pandemic, weaknesses in our supply chain system were amplified as landside port congestion and unfair ship-

ping practices by foreign ocean carriers led to backlogs and price increases, which certainly contributed to inflation.

The reforms in our bill strengthened the FMC's authority to investigate unfair ocean shipping carrier fees and facilitate the efficient movement of cargo through U.S. ports. I am proud to say that since the passage of the Ocean Shipping Reform Act, vessel congestion at ports has decreased dramatically, and the FMC has refunded over \$700,000 in undue charges by carriers—or, should I say, unfair charges.

Further, the FMC is currently undertaking a rulemaking aimed at ensuring that exporters are giving fair access to cargo space. It is important that the FMC is sufficiently funded so that it can properly carry out these reforms, which will greatly benefit American businesses and the American consumer.

I look also forward to learning about MARAD's plans to revitalize the American maritime industry, from ports and infrastructure, to our shrinking U.S.-flagged fleet, to the dwindling of available American merchant mariners.

Administrator Phillips and her team have done an excellent job continuing to pursue systemic change to the toxic culture that has resulted in sexual violence at the U.S. Merchant Marine Academy and in the commercial maritime industry. Some of that congratulations is also extended to Lucinda Lessley for her work before the Administrator came on. This issue is of the utmost importance, and while our work is not done, I commend both of your leaderships on efforts to make the maritime industry a safe and desirable workplace for all.

MARAD oversees vital grant programs that fund projects to modernize our infrastructure, including the Maritime Environmental and Technical Assistance program, META, and the Port Infrastructure Development Program. The President's budget request includes \$8.5 million for META, which is a \$2.5 million increase over last year's budget. This supports the research, development, installation, and use of low- or zero-carbon technologies. These technologies are crucial for reducing harmful emissions that protect the environment, especially for port communities where air pollution is statistically worse.

Included in this request for META is \$1.5 million for the research and reduction of underwater noise from vessels. Underwater noise disproportionately affects marine mammals such as whales. Last Congress, I worked with my colleagues across the aisle to include an increased authorization for META and language to address vessel sound. While this request is small, I am happy to see that MARAD is prioritizing protecting whales from the impacts of vessels.

The Port Infrastructure Development Program also supports decarbonization projects, which help reduce our carbon footprint and build a more resilient, reliable Marine Transportation System. When we invest in renewable energy like electrification at ports, it creates jobs and adds resilience to disruptions that can occur with traditional fossil fuels, not to mention protecting the public's health.

I am particularly interested in how the Port Infrastructure Development Program could support the Morro Bay offshore wind

project in my district. Building out potential port infrastructure to receive and transmit this energy, as well as creating laydown space for shoreside wind turbine staging and operations is of critical importance and will require a significant investment.

Thank you to our witnesses and attendees for their participation today. I look forward to a robust discussion about how the 2024 budget request can support investments in a stronger maritime industry.

[Mr. Carbajal's prepared statement follows:]

Prepared Statement of Hon. Salud O. Carbajal of California, Ranking Member, Subcommittee on Coast Guard and Maritime Transportation

Thank you, Chair Webster, for scheduling today's hearing on the "Review of Fiscal Year 2024 Administration Budget Request for Federal Maritime Transportation Programs and Implementation of the Ocean Shipping Reform Act of 2022".

I look forward to hearing from Chair Maffei of the Federal Maritime Commission, or FMC, and Administrator Phillips of the Maritime Administration, or MARAD, on the President's budget request and their agency priorities for the upcoming year.

I am particularly eager to hear from the FMC about its implementation of the Ocean Shipping Reform Act, which passed out of this subcommittee last Congress before becoming law, and how its new authorities will help maintain a resilient and efficient supply chain.

As the federal agency tasked with ensuring fairness in international shipping, the FMC has key authorities which allow it to safeguard transparent and equitable maritime commerce. As the recent supply chain issues have demonstrated, stability in international shipping is integral to a strong economy.

During the COVID-19 pandemic, weaknesses in our supply chain system were amplified as landside port congestion and unfair shipping practices by foreign ocean carriers led to backlogs and price increases, which have contributed to inflation.

The reforms in our bill strengthened the FMC's authority to investigate unfair ocean shipping carrier fees and facilitate the efficient movement of cargo through U.S. ports. I am proud to say that since the passage of the Ocean Shipping Reform Act, vessel congestion at ports has decreased and the FMC has refunded over \$700,000 in undue charges by carriers.

Further, the FMC is currently undertaking a rulemaking aimed at ensuring that exporters are given fair access to cargo space. It is important that the FMC is sufficiently funded so that it can properly carry out these reforms, which will greatly benefit American businesses and the American consumer.

I look also forward to learning about MARAD's plans to revitalize the American maritime industry, from ports and infrastructure to our shrinking U.S. flagged fleet and the dwindling availability of American merchant mariners.

Administrator Phillips has done an excellent job continuing to pursue systemic change to the toxic culture that has resulted in sexual violence at the U.S. Merchant Marine Academy and in the commercial maritime industry. This issue is of the utmost importance and, while our work is not done, I commend her leadership on efforts to make the maritime industry a safe and desirable workplace for all.

MARAD oversees vital grant programs that fund projects to modernize our infrastructure, including the Maritime Environmental and Technical Assistance program, or META, and the Port Infrastructure Development Program.

The President's budget request includes \$8.5 million for META, which is a \$2.5 million increase over last year's budget. This supports the research, development, installation and use of low or zero-carbon technologies. These technologies are crucial for reducing harmful emissions and protecting the environment, especially for port communities, where air pollution is statistically worse.

Included in this request for META is \$1.5 million for the research and reduction of underwater noise from vessels. Underwater noise disproportionately affects marine mammals, such as whales. Last Congress I worked with my colleagues across the aisle to include an increased authorization for META and language to address vessel sound. While this request is small, I am happy to see MARAD prioritize protecting our whales from the impacts of vessels.

The Port Infrastructure Development Program also supports decarbonization projects, which help reduce our carbon footprint and build a more resilient, reliable marine transportation system. When we invest in renewable energy, like electrifica-

tion at ports, it creates jobs and adds resilience to disruptions that can occur with traditional fossil fuels.

I'm particularly interested in how the Port Infrastructure Development Program could support the Morro Bay offshore wind project in my district. Building out the port infrastructure to receive and transmit this energy, as well as creating laydown space for shoreside wind turbine staging, is of critical importance and requires a significant investment.

Thank you to our witnesses and attendees for their participation today. I look forward to a robust discussion about how the 2024 budget request can support investments in a stronger maritime industry.

Mr. CARBAJAL. Mr. Chair, I yield back.

Mr. WEBSTER OF FLORIDA. I would like to welcome our witnesses and thank them for being here today. I appreciate your attendance.

I ask unanimous consent that the witnesses' full statements be included in the record.

Without objection, so ordered.

As your written testimony has been made part of the record, the committee also asks you to limit your oral remarks to 5 minutes.

With that, Admiral Phillips, you are recognized for 5 minutes for your testimony.

TESTIMONY OF ANN C. PHILLIPS, REAR ADMIRAL, U.S. NAVY (RET.), AND ADMINISTRATOR, MARITIME ADMINISTRATION; AND HON. DANIEL B. MAFFEI, CHAIRMAN, FEDERAL MARITIME COMMISSION

TESTIMONY OF ANN C. PHILLIPS, REAR ADMIRAL, U.S. NAVY (RET.), AND ADMINISTRATOR, MARITIME ADMINISTRATION

Admiral PHILLIPS. Thank you, Chairman Webster.

Good afternoon, everyone. Good afternoon, Mr. Chairman, Ranking Member Carbajal, members of the subcommittee. Thank you for your tremendous support for the Maritime Administration, the U.S. Merchant Marine Academy, and the U.S. maritime industry. And thank you for the opportunity to testify before you today.

As a retired U.S. Navy rear admiral with more than 30 years of military service, I knew before becoming the Maritime Administrator how critical our merchant marine and our entire maritime industry are to our national defense, as well as our economy.

Now, having led the great MARAD team for just under a year, I can tell you this agency is meeting many historic moments as we work to promote the merchant marine and strengthen all facets of the maritime industry. We are administering once-in-a-generation investments in ports and waterways made possible by the President's Bipartisan Infrastructure Law. We are also working to advance culture change throughout the merchant marine to help ensure every mariner is treated with respect and has the opportunity to advance on the basis of their skills and professionalism. We are advancing long overdue recapitalization of our aging Ready Reserve Force.

The President's fiscal year 2024 budget request of \$980.2 million for MARAD is critical to enabling MARAD to carry out this vital work on every front. For example, the request would expand our historic investments in ports. In fiscal year 2024, the third tranche of funding, \$450 million, provided by the Bipartisan Infrastructure Law to support the Port Infrastructure Development Program, will

be invested in new grants. The President's budget requests an additional \$230 million to support PIDP, which would bring the total amount of funding available in 2024 to \$680 million.

Last year, MARAD awarded more than \$703 million in PIDP grants to 41 projects in 22 States and 1 Territory. More than 60 percent of these awards benefit ports in historically disadvantaged communities, and more than \$150 million in awarded funding focuses on port electrification to improve air quality.

In addition, the President's fiscal year 2024 request will enable MARAD to continue to address the urgent and longstanding challenges at the Merchant Marine Academy, including implementing the many new authorities and responsibilities provided in the fiscal year 2023 NDAA.

Specifically, funding will support approximately 975 midshipmen and 292 faculty and staff. It will enable us to continue our work implementing the Every Mariner Builds a Respectful Culture program, EMBARC, and help meet the Academy's extensive facility, maintenance, and repair needs.

As you know, MARAD established the EMBARC program in December of 2021 to help prevent sexual assault and harassment during the Sea Year program to support survivors, strengthen a culture of accountability, and improve safety for all mariners. Now, thanks to the fiscal year 2023 NDAA, commercially operated vessels must, by law, comply with sexual assault and harassment prevention and response standards set by MARAD before they can train Merchant Marine Academy cadets.

Further, the fiscal year 2023 NDAA gave MARAD the authority to withhold payments from companies that receive Federal subsidies if they do not comply with MARAD's policies and requirements. MARAD is working as quickly as possible to develop a proposed EMBARC rule pursuant to the authority provided by the NDAA. I note that today there are 16 commercial operators enrolled in EMBARC, and together they operate more than 140 vessels.

The 2024 budget request also includes \$92 million for capital and maintenance funding improvements for the Academy to help us advance capital projects and address the maintenance backlog.

We have also implemented numerous measures to improve our ability to manage capital projects at the Academy, including creating a new position staffed by a senior executive to oversee all projects. Late last year, we provided the Academy's Fiscal Year 2022 Capital Improvement Plan, which details project needs to support safety, health, and well-being of midshipmen. In December 2022, we awarded a campuswide maintenance contract at USMMA, which has a \$42 million ceiling over the next 5 years, and additional maintenance work, including the replacement of boilers, will continue outside that contract.

Looking at our sealift programs, the fiscal year 2024 budget requests the full authorization of \$318 million for the Maritime Security Program, and the budget requests \$60 million for the Tanker Security Program. I am pleased to report that at the end of last year, MARAD issued an interim final rule to implement the Tanker Security Program. The TSP application period closed February

17th, and we anticipate announcing the first 10 ships selected for enrollment in the near term.

Thank you for the opportunity to present and discuss the President's budget for MARAD, and I look forward to any questions you and the members of the subcommittee may have.

[Admiral Phillips' prepared statement follows:]

**Prepared Statement of Ann C. Phillips, Rear Admiral, U.S. Navy (Ret.), and
Administrator, Maritime Administration**

Good afternoon, Chairman Webster, Ranking Member Carbajal, and Members of the Subcommittee. Thank you for your tremendous support for the Maritime Administration (MARAD), the U.S. Merchant Marine Academy (USMMA), and the U.S. maritime industry. We greatly appreciate the opportunity to testify today on the President's Fiscal Year (FY) 2024 budget, and how this request will enable MARAD to continue to advance key priorities in support of our economic and national security.

FY 2024 BUDGET REQUEST

MARAD's mission is to foster, promote, and develop the maritime industry of the United States to meet the nation's economic and security needs. The President's FY 2024 Budget request of \$980.2 million for MARAD will enable the agency to continue to strengthen our sealift enterprise by advancing recapitalization of the Ready Reserve Force (RRF) and the vital commercial sealift programs that support U.S.-flagged vessels operating in the foreign trade.

The President's request will also support investments in our ports and waterways to improve supply chain resiliency and expand our efforts to address climate change. In FY 2024, the third tranche of funding—\$450 million—provided by the Bipartisan Infrastructure Law (BIL) to support the Port Infrastructure Development Program (PIDP) will be invested in new grants. The President's budget requests an additional \$230 million to support PIDP, which would bring the total amount of funding available in FY 2024 to \$680 million and enable us to continue modernizing our ports to help reduce the costs of moving goods from ships to shelves and from American farmers and factories to destinations overseas.

In addition, the President's request will enable MARAD to continue critical investments to address the urgent and long-standing challenges at the USMMA. Further, it will enable us to implement the many new authorities and responsibilities provided in the James M. Inhofe National Defense Authorization Act for Fiscal Year (FY 2023 NDAA).

ECONOMIC AND CLIMATE SUSTAINABILITY INVESTMENTS

The President's FY 2024 budget requests \$230 million for the PIDP to provide grants to improve port infrastructure and facilities and to stimulate economic growth in and around ports while also improving safety, addressing climate change and equity, and strengthening our supply chains. In addition to the funding requested in the budget, the BIL provides \$450 million in advance appropriations for this program in FY 2024. Together, this funding would provide a \$680 million investment for port infrastructure projects.

Last year, MARAD awarded more than \$703 million in PIDP grants. This total included the first tranche of \$450 million in funding provided by the BIL, approximately \$234 million in FY 2022 appropriations, and unexpended funding from a prior PIDP round. The 2022 PIDP awards will fund 41 projects in 22 states and one territory. More than 60 percent of the PIDP awards made in 2022 benefit ports in historically disadvantaged communities. More than \$150 million in the funding awarded last year focuses on port electrification to improve air quality, while nearly \$100 million of the awarded funding supports projects that will advance offshore wind farm developments.

This year, thanks again to the BIL and the funding provided in the FY 2023 appropriations measure, more than \$662 million in funding is available for PIDP grants. The Notice of Funding Opportunity (NOFO) for this program is open and applications are due on April 28, 2023.

The FY 2024 Budget also requests \$11 million for the United States Marine Highway Program. Marine highways support our maritime supply chains and enable more cost-effective transportation options for U.S. shippers and manufacturers.

The FY 2023 NDAA made significant changes to this program, including renaming it from the “America’s Marine Highway Program” to the new “United States Marine Highway Program” and expanding the types of cargo that projects receiving funding under the program can support. The changes made by the FY 2023 NDAA are incorporated into this year’s NOFO for the United States Marine Highway Program, which is now open. There is \$12.4 million in funding available and applications are due on April 28, 2023. Importantly, thanks to another change made in the FY 2023 NDAA, any eligible project along any of the 29 designated Marine Highway Routes—which encompass 41 states—is eligible to apply for funding.

In 2022, MARAD awarded nearly \$39 million in marine highway projects. This unprecedented level of funding was made possible by the BIL, which provided a one-time infusion of \$25 million to support the expansion of marine highways. The funding awarded last year will support 12 projects across the nation—and nearly all the funding is supporting projects in Historically Disadvantaged Communities or Federally designated community development zones.

The FY 2024 Budget also requests \$20 million for MARAD’s Small Shipyards grants to support infrastructure improvements at qualified small U.S. shipyards to help improve their efficiency and ability to compete for domestic and international commercial ship construction and maintenance opportunities. Investing in shipbuilding supports job creation in a vital domestic industrial base. These grants can also be used to support the acquisition of equipment that reduces climate impacts and adapts technologies that reduce shipyard power consumption.

Within MARAD’s FY 2024 Budget request, \$8.5 million will support the Maritime Environmental and Technical Assistance (META) program. The META program fulfills a niche in the Federal government by being specifically designed to assist stakeholders with innovation that supports a safe and efficient U.S. maritime transportation sector. Approximately 75 percent of the FY 2024 funding will be focused on efforts related to decarbonization of the maritime transportation sector.

The FY 2024 Budget request for MARAD includes \$3 million for the Maritime Guaranteed Loan Program (Title XI) to provide the salaries and overhead support to manage the loan portfolio, currently at \$1.5 billion in outstanding loan guarantees. This program is designed to manage loans that help to promote the U.S. shipyard industry by providing additional opportunities for vessel construction and modernization, including repowering, that may otherwise be unavailable to ship owners.

In June 2022, MARAD designated vessels constructed or reconstructed for use to support offshore wind facilities as Vessels of National Interest. This is the first time that this authority has been used since it was added to Title XI statute in 2019. With this designation, applications for projects qualifying as Vessels of National Interest have priority for review and funding. Since this designation, there has been a significant increase in interest in the Title XI Program to support offshore wind vessels. The program has applications for seven projects under credit trustworthiness review, including five projects for Jones Act-qualified windfarm vessels.

The President’s FY 2024 Budget requests \$6 million for MARAD’s Ship Disposal Program for support staff and overhead costs to continue to put primary emphasis on the disposal of the worst conditioned, non-retention vessels to mitigate environmental risks.

U.S. MERCHANT MARINE EDUCATION AND TRAINING

MARAD supports mariner training programs to produce highly skilled U.S. Coast Guard (USCG) credentialed officers for the U.S. merchant marine. Specifically, MARAD supports mariner education and training at USMMA, and it facilitates mariner education through the extensive support we provide to the six state maritime academies (SMA).

Graduates of USMMA are required to maintain their licenses for 6 years and to sail on commercial vessels or serve in other capacities—such as on active duty in U.S. uniformed services—for 5 years. USMMA is also the principal source of new officers for the U.S. Navy’s Strategic Sealift Officer (SSO) Program, which maintains a cadre of approximately 2,000 U.S. Naval Reserve Officers with the training and credentials to operate strategic sealift resources at times of national need.

Funding will support academic operating expenses for approximately 975 midshipmen and 292 faculty and support staff, including expanded support for the extensive facility maintenance and repair needs of the Academy’s aging physical plant and for our work implementing the Every Mariner Builds A Respectful Culture (EMBARC) program.

MARAD established the EMBARC program in December 2021 to help prevent sexual assault and sexual harassment during the Sea Year program, to support survivors, strengthen a culture of accountability, and improve safety for all mariners. Vessel operators enroll in the EMBARC program before USMMA cadets can train on an operator's vessels.

Now, thanks to the FY 2023 NDAA, commercially operated vessels must comply with standards set by MARAD regarding the prevention of, and response to, sexual assault and harassment before they can train USMMA cadets. In addition, the FY 2023 NDAA authorized the Secretary of Transportation to establish a Sexual Assault Advisory Council to review existing policies and make recommendations for improvements to build on our efforts to strengthen prevention of sexual assault and sexual harassment on campus and during Sea Year and ensure appropriate responses when such incidents occur.

Further, the FY 2023 NDAA gave MARAD the authority to withhold payments from companies participating in the Maritime Security Program (MSP), Cable Ship Security Program (CSP), and Tanker Security Program (TSP) if they do not comply with the policies and requirements established by MARAD for the protection of cadets from sexual assault and sexual harassment. MARAD is working as quickly as possible to develop a proposed EMBARC rule pursuant to the authority provided by the FY 2023 NDAA.

In addition, the FY 2023 NDAA requires that ocean-going vessels include sexual assault and sexual harassment response policies in their Safety Management Systems (SMS)—which has been a central tenet of EMBARC. In short, the FY 2023 NDAA reinforces a long overdue change in shipboard culture that will promote fair and equitable treatment of all mariners and contribute to a safer working environment.

Today, there are 16 commercial operators enrolled in EMBARC; together, they operate more than 140 vessels. All vessel operators that are required to carry USMMA cadets under section 46 U.S.C. § 51307(b)—i.e., operators with vessels enrolled in the MSP and the CSP—have enrolled in EMBARC. Companies that enroll vessels in the new Tanker Security Fleet will be required to have completed enrollment in EMBARC as a condition of enrolling in the TSP.

Thanks to the incredible support provided by the Military Sealift Command, the Navy, and the USCG, the Midshipmen in the USMMA Class of 2023 have accrued the sea time needed to qualify to take their licensing exams on time and to graduate on time.

Of the funding requested in the FY 2024 Budget for USMMA, \$92 million would support emergency and recurring maintenance and repair activities on campus as well as major investments in aging facilities and infrastructure at USMMA.

The Biden-Harris Administration has long recognized the urgent need to rehabilitate and replace existing infrastructure and to significantly strengthen the ability of MARAD and USMMA to plan and manage capital investments and major maintenance efforts. Working closely with leaders and experts from the Department of Transportation (DOT), MARAD has implemented numerous measures to improve our ability to manage capital projects. Consistent with a recommendation from the National Academy of Public Administration, MARAD/USMMA created a new director position that is staffed with a Senior Executive to oversee all capital and maintenance projects at USMMA. MARAD and the DOT have also created new oversight bodies to ensure that investments of taxpayer funds are properly managed and yield completed projects that address the Academy's most urgent needs.

Late last year, MARAD provided to the Committees on Appropriations and made public USMMA's Fiscal Year 2022 Capital Improvement Plan (CIP). The Fiscal Year 2022 CIP explains significant changes made to active and out-year projects since USMMA's last CIP report, which was provided in FY 2019. These changes are based on demonstrated need as well as the principles that guide our prioritization of capital and maintenance projects. Specifically, our highest priorities for capital and maintenance investments are supporting the safety, health, and well-being of Midshipmen and supporting the Academy's academic mission.

In December 2022, the USMMA awarded a campuswide maintenance contract, which fulfills another key recommendation from the National Academy of Public Administration. The contract has a \$42 million ceiling over the next 5 years and will help address the significant maintenance backlog. Part of the funding requested for FY 2024 will enable us to implement task orders under the campuswide maintenance contract to address routine maintenance on a scheduled basis and help reduce the incidence of emergency repairs.

Capital improvement funds requested in FY 2024 would enable us to replace USMMA's existing storm water management systems, which date back to the 1940s

and are broken beyond repair. Funding would also enable us to replace the seawall, which can no longer meet projected storm surges and anticipated rises in sea level.

The FY 2024 Budget request also includes \$53.4 million to provide support to the six SMAs. This request includes funding for vessel management, logistics, and maintenance oversight to prepare the schools to receive and operate the National Security Multi-Mission Vessels (NSMV).

Funding would also be available to address unanticipated increases in steel costs for the NSMVs, and support pier improvements at SMAs necessary to enable heavy weather mooring of the NSMVs. MARAD has concluded a cooperative agreement with the State University of New York Maritime College under which MARAD will cover 80 percent of the costs of their eligible pier upgrades up to just over \$18 million.

Funding would also meet maintenance and repair costs to maintain the legacy school ships and continue our direct support to the SMAs.

There are now four NSMVs under construction. The first ship—the EMPIRE STATE—is already launched and we anticipate taking delivery of the ship in June of this year.

NATIONAL SECURITY

Providing sealift to meet the nation's needs is a critical part of MARAD's mission, and we have proudly met the challenges of managing the National Defense Reserve Fleet (NDRF) for 77 years. America's strategic sealift provides the Nation with the capability to rapidly project power globally by deploying Department of Defense (DOD) forces and moving cargoes worldwide during peacetime and wartime—including through contested environments—whenever activated by the U.S. Transportation Command (USTRANSCOM).

Our Government-owned sealift fleet is supported and leveraged by a fleet of privately owned, commercially operated U.S.-flag vessels in the MSP, CSP, and the new TSP.

The FY 2024 Budget requests the full authorization level of \$318 million for the MSP, which is the heart of sustainment sealift. In return for a stipend, MSP operators provide the DOD with assured access to their ships and their global networks of critical capabilities, including intermodal facilities used to unload and transport military cargoes to final destinations.

There are 60 commercially viable, militarily useful vessels enrolled in MSP. These vessels are active in international trade and are on-call to meet the nation's need for sustained military sealift capacity. The MSP supports and sustains the merchant mariner base by providing employment for 2,400 highly trained, skilled U.S. merchant mariners who may also crew the U.S. Government-owned surge sealift fleet when activated. The MSP also supports more than 5,000 additional shore-side maritime industry jobs.

In addition, the President's budget requests \$60 million for the TSP. A study required by the FY 2020 NDAA found a substantial risk to the nation associated with heavy reliance on foreign-flagged tankers, particularly in a contested environment. The TSP will be comprised of active, commercially viable, militarily useful, privately owned product tank vessels. I am pleased to report that at the end of last year, MARAD issued the updated Voluntary Tanker Agreement and an Interim Final Rule. The application period closed on February 17, 2023, and we anticipate announcing the first 10 ships selected for enrollment in the near term.

As you know, last year, I testified before this Subcommittee regarding our cargo preference programs. As I said then, put simply, without cargoes, ships will leave the U.S. flag, our modest fleet will continue to dwindle to the point that the number of American vessels is simply too small to meet government shipper agency requirements whether military or civilian. We are working with the Biden-Harris Administration's Made In America Office to help agencies understand cargo preference requirements. In addition, consistent with my testimony, I have written to all Federal departments and agencies explaining how MARAD can help them ensure they meet their obligations under cargo preference laws and regulations.

MARAD is working diligently on revisions to the cargo preference regulations as required by the Fiscal Year 2023 NDAA.

One of the current challenges with meeting cargo preference requirements is ensuring we have both enough vessels and the wide mix of vessel types to carry the many types of cargoes that the government impels. To help attract additional vessels to our flag, the Biden-Harris Administration proposed that Congress eliminate the 3-year period that vessels entering the U.S. flag must currently wait before they are eligible to carry civilian agency preference cargoes. This would ensure that vessels that choose to sail under the U.S.-flag can carry preference cargoes as soon as

they enter the flag, as well as provide the opportunity to diversify the types of vessels available to civilian agencies to carry cargoes. In return, once under the U.S. flag, the vessels would be restricted from flagging out for 3 years. This proposal, however, was not adopted by the prior Congress.

The President's FY 2024 Budget requests \$809.6 million from DOD budgetary authority for MARAD to acquire, upgrade, and maintain vessels in the NDRF and RRF. Funds will ensure MARAD's ability to maintain the fleet in a ready, reliable, and responsive condition to meet strategic sealift for the U.S. Armed Forces, and humanitarian support when called upon during national emergencies, as well as maintain MARAD's NDRF fleet mooring sites.

MARAD's RRF consists of sealift ships providing a mix of capabilities. RRF ships, along with a smaller number of Military Sealift Command vessels, provide sealift surge capability to deliver DOD equipment and supplies where needed during the initial stages of a response to a major contingency. Today, the RRF is a fleet of 45 vessels, with an average age of more than 45 years, maintained in a reduced operating status to be ready to sail within five days of activation. The fleet will grow to 51 vessels after the transfer of additional surge sealift and prepositioning vessels from the Military Sealift Command is complete by the end of FY 2025.

The COVID-19 pandemic has exacerbated difficulties in maintaining ship and even mariner readiness. As part of the Navy's overall plan for sealift recapitalization, MARAD is responsible for maintaining the existing RRF ships through the recapitalization period, including dozens of ships that are nearly 50 years old or even older. Continued focus on safety, material condition, and regulatory compliance have been difficult to sustain, and challenges have been compounded by equipment and parts delays, and the increased scope of the repairs we have had to undertake, including steelwork.

MARAD is working to advance the urgent recapitalization of the RRF. In March 2022—and for the first time in nearly 30 years—we announced the purchase of two vessels. These two ships, the former HONOR and FREEDOM, joined the RRF as the CAPE ARUNDEL and CAPE CORTES, adding more than 432,000 square feet of total sealift capacity and 316,000 square feet of military cargo capacity. Both of these vessels participated in the MSP, and while differences in marine safety regimens have slowed progress towards certification, the ships will be upgraded in U.S. shipyards to add additional capabilities in summer 2023 as planned.

On January 27, 2023, the DOD transmitted the next proposed ship purchase decision to Congress for the required 30-day notification period. Without any noted concerns, the three ships will be purchased and placed under U.S. government ownership starting in April 2023 and continuing into summer 2023.

In the FY 2023 NDAA, MARAD was directed to develop a Roll-On/Roll-Off ship design for the construction of 10 new vessels for the NDRF to begin construction in 2024. In response to this directive, the RRF program is documenting the necessary actions to rapidly implement a limited shipbuilding program. Modeled after the NSMV program, this shipbuilding effort would leverage commercial practices and utilize a Vessel Construction Manager to speed deliveries. At this time, MARAD activity is limited to developing the implementation plan and the requirements for a concept design for new construction.

CONCLUSION

These programs represent MARAD's priorities that are supported by the President's Budget. We will continue to keep you apprised of the progress of our program activities and initiatives in these areas in the coming year.

Thank you for the opportunity to present and discuss the President's Budget for MARAD. I appreciate the Subcommittee's continuing support for maritime programs, and I look forward to any questions you and the members of the Subcommittee may have.

Mr. WEBSTER OF FLORIDA. Thank you so much.
Now, Chairman Maffei, you are recognized.

TESTIMONY OF HON. DANIEL B. MAFFEI, CHAIRMAN, FEDERAL MARITIME COMMISSION

Mr. MAFFEI. Thank you very much, Chairman Webster, Ranking Member Carbajal, and members of this committee. I appreciate the opportunity to testify today.

The last time I appeared before this subcommittee, the international ocean freight transportation system in this country was in crisis. Chairman Webster already pointed out to you the sky-high rates and the fact that ag exporters were being crowded out. And many of you were rightfully looking to the Federal Maritime Commission to take a leading role in untying the knots and mitigating the unfairness that seemed to be plaguing the supply chain.

I am pleased to report to you today that the situation has dramatically improved. The ship queues and congestion that overwhelmed the supply chain for approximately 2 years are now gone. Cargo is flowing more fluidly, shippers are having an easier time securing vital equipment, and exports are better able to make their connections to outgoing ships. The cost of ocean shipping has fallen substantially, and for transpacific service is now near pre-pandemic levels. And this rate drop occurred far more rapidly than forecasted. If anything, ocean shipping is now exerting downward pressure on price inflation.

Now, no doubt, much of this is a natural result of market forces occurring as the world emerged from COVID. But the Federal Maritime Commission has also played a vital role in promoting fairness to America's importers and exporters, and restoring confidence to our ocean supply chains. The intense engagement of the FMC has helped U.S. companies by providing fair arbitration or adjudication of their disputes with ocean containership companies and terminal operators.

Word gets around fast in the freight transportation industry. When America's importers and exporters realized that the FMC could help, there was a huge jump in cases. Our consumer affairs office now handles an average of more than 100 requests for help every month. The FMC is now handling vastly more formal complaints than in past years. The annual number of dockets filed with our Secretary has tripled since 2019. We currently have more than two dozen active cases, and there has been such a vast increase in cases filed with the Commission's administrative law judges that we now must hire a third judge when just one ALJ was sufficient in early 2020.

Now, the FMC's increased potency in assisting American cargo shippers is largely due to the enactment by this subcommittee and then consequently by the whole Congress of the Ocean Shipping Reform Act of 2022. This was the first substantial overhaul of America's international ocean shipping laws in 24 years, and in my view is a counterexample to the cynical view that Congress cannot address problems in a broadly bipartisan way, and do so expeditiously.

And I have to note that the two House sponsors of the bill, Mr. Garamendi and Mr. Johnson of South Dakota, are here today.

As you and Congress did your job, we at the FMC must now do our jobs by implementing the new law to the best of our ability and in the spirit intended by Congress. We have, in fact, made substantial progress in meeting our obligations under the law since the President signed it. The FMC has already two landmark OSRA rulemakings underway. We have created a new fast-track process for importer and exporter charge complaints, and we have implemented seven other OSRA provisions.

Now, the Commission is cognizant that it is implementing these important changes at a time when international trade itself is changing. At an ocean freight conference a few weeks ago, General David Petraeus warned that we are in an era of “slowbalization,” where geopolitics very much define what is possible in terms of economics, trade, and investment. Managing risk is becoming much more challenging for American importers and exporters when any event or economic issue taking place anywhere in the world has the potential to disrupt America’s supply chains.

America’s international ocean freight transportation system moves more than \$1.3 trillion in goods annually and is indirectly responsible for trillions more in economic activity. But make no mistake, this system remains vulnerable. The FMC has learned much from the last several years and is working diligently within our statutory authority to apply these lessons, both in our implementation of OSRA and in our other activities. The budget that the President has submitted permits us to do this in large part by hiring the professional staff needed to enhance enforcement, sharpen antitrust monitoring, assist more U.S. importers and exporters, and work with public- and private-sector stakeholders to find solutions to America’s supply chain challenges.

This has been and continues to be the most intense period of activity in our agency’s over 50-year history. We are proud of what we have accomplished, and at the same time, we understand that there is still so much to be done. Thank you.

And I, too, am happy to take questions from the committee.

[Mr. Maffei’s prepared statement follows:]

Prepared Statement of Hon. Daniel B. Maffei, Chairman, Federal Maritime Commission

Chairman Webster, Ranking Member Carbajal, Members of the Subcommittee, thank you for this opportunity to appear before you today to discuss the Federal Maritime Commission’s Fiscal Year 2024 budget request of \$43,720,000 to fund its operations in the coming fiscal year.

The last time I appeared before this subcommittee, the supply chains that service this country were still very much in crisis. The media was still showing long lines of ships held up outside our major ports, ports were clogged with containers, ship schedules were woefully unreliable making it extremely challenging for exporters, and freight rates and fees were sky-high adding to the inflationary pressures on imported goods and inputs.

The Nation’s freight transportation systems were largely overwhelmed by the unprecedented high demand that resulted from COVID-related consumer spending patterns. However, there were also widespread reports from importers and exporters that the large multinational ocean container ship operators were taking advantage of a situation already economically favorable to them. The most cited example was additional freight charges called detention and demurrage being improperly assessed for laden containers that were not picked up on schedule or empty containers and other equipment that was not returned on time. The assertion was that many of these charges—amounting to millions and millions of dollars for even a medium-sized shipper—did not comply with FMC rules such as the May 2020 interpretive rule on detention and demurrage authored by Commissioner Rebecca Dye and approved unanimously by the Commission.

Sorting all of this out and promulgating solutions to stakeholders to help us unravel the knots in the Nation’s supply chains was largely the job of the Federal Maritime Commission. It has been and continues to be the most intense period of activity in our agency’s over 50-year history.

I am pleased to report to you that now the ocean freight transportation system is much improved in virtually every way. The ship queues and congestion that over-

whelmed the supply chain for approximately two years have drastically dissipated. Cargo is flowing more fluidly, shippers are having an easier time securing inter-modal equipment, and exports are making their connections to the outgoing ships. The cost of ocean shipping has dropped dramatically to levels more typical of pre-pandemic prices—and this rate drop occurred far more rapidly than forecast. If anything, ocean shipping is now exerting downward pressure on price inflation.

Of course, much of this is a natural result of market-forces. Nonetheless, the FMC played a vital role in promoting fairness to America's importers and exporters and restoring confidence to America's ocean supply chains. Many stakeholders and their representatives in Congress turned to the Federal Maritime Commission to do more during the crisis. In rapid response, the FMC substantially stepped up its activity, and made a difference.

As shippers realized the FMC was eager to help them where appropriate and provide fair arbitration or adjudication of their disputes, there was a huge jump in cases.

We are handling exponentially more complaints now than before the Ocean Shipping Reform Act of 2022 (OSRA) was enacted. Our Office of the Secretary reports that the number of dockets it manages increased by 88% in Fiscal Year 2022 from Fiscal Year 2021, and there are three times as many docket filings when compared to Fiscal Year 2019. This is a useful barometer of Commission activity as docketed proceedings include formal complaints, informal complaints, petitions, fact findings, special permission applications, and rulemakings.

A second indicator of the new demand for Commission services is the marked increase of both small claims and formal cases that have been filed with the Commission's Office of the Administrative Law Judges (ALJ) beginning in 2020. The ALJ's caseload tripled in Fiscal Year 2022 when compared to a pre-pandemic year. Comparing statistics within the pandemic period, the OALJ's output in FY 2022 doubled from FY 2021. Many of the cases heard by our ALJs are complicated and involve substantive matters of the law that do not lend themselves to immediate rulings. The Commission hired a second Administrative Law Judge to help manage this caseload and are we are in the process of recruiting for a third now. These hirings ensure that legal proceedings do not become delayed because of caseloads and the judicial process at the Federal Maritime Commission continues to function effectively.

The demand for Commission services from all our bureaus and offices remains high and we believe this workload will remain at elevated levels. This increase is largely a positive development because it means that importers, exporters, and other industry stakeholders have seen others benefit from using the FMC. We are closely tracking requests for service to determine if present volumes are indicative of the tail end of a trend or a new baseline for how often the public turns to the FMC for assistance.

OSRA 2022 IMPLEMENTATION

Of course, the capacity of the FMC to assist American importers and exporters and promote fairness and efficiency in America's cargo transportation systems was significantly aided by the enactment of the bipartisan Ocean Shipping Reform Act of 2022 (OSRA). Whether you ultimately supported the legislation, thought it went too far, or thought it did not go far enough, I want to thank each and every member of this subcommittee for your constructive contribution to America's ocean freight transportation system.

I maintain that the additional resources and authority in OSRA and the Congress' willingness to act so expeditiously were crucial to putting the system back on course.

That is why I am committed to implementing OSRA in the spirit intended by Congress. We have made substantial progress in meeting our obligations under the law since its enactment by President Biden on June 16, 2022. To date, we have already:

- Updated our civil penalties regulations to include refunds of a charge (Section 8);
- Established a process for accepting, investigating, and adjudicating charge complaints (Section 10);
- Posted to the Commission's website the Fact Finding 29 Final Report (Section 11);
- Updated the Annual Report to include any concerning practices by ocean common carriers (Section 14);
- Continued to maintain an Office of Consumer Assistance and Dispute Resolution Services (CADRS) (Section 17(b));

- Hired no fewer than seven positions to support investigations and oversight functions (Section 17(c));
- Determined if congestion of carriage of goods has created an emergency situation such that the Commission needs to order information sharing (Section 18);
- Entered into an agreement with the Transportation Research Board to conduct a study and develop best practices for on-terminal and near-terminal chassis pools (Section 19); and,
- Been in contact with relevant agencies responsible for sections of OSRA dealing with Review of Potential Discrimination Against Transportation of Qualified Hazardous Materials (Section 22), Use of Inland Ports for Storage and Transfer of Containers (Section 24), Report on Adoption of Technology at United States Ports (Section 25).

Significant work has been completed on other requirements of OSRA and we have made substantial progress in:

- Issuing a proposed final rule on detention and demurrage invoicing and billing (Section 7); and,
- Issuing a Supplemental Notice of Proposed Rulemaking on Unreasonable Refusal to Deal or Negotiate with Respect to Vessel Space (Section 7).

Notwithstanding my commitment to timely implementation, it is even more important we get these rules right. I want to assure you that Commission staff is working diligently on both these matters, giving all comments received the careful consideration they warrant. The Commission is committed to ultimately issuing rules that address and reconcile the important issues raised by the comments. I anticipate we will be taking next steps on both the Unreasonable Refusal to Deal and the Detention and Demurrage Billing Requirements proposed rules soon.

Implementation of OSRA involves the efforts of all staff at the Commission working in policy and program offices. All sections of OSRA are being worked on simultaneously. We have had to make decisions regarding prioritization. As staff achieves progress on first implementation priorities, they turn their efforts to other sections of the legislation. No section of OSRA is being left unaddressed and work has begun on all sections of the legislation the Commission is responsible for implementing. We will be announcing further implementation steps and achievements as the year goes on.

While OSRA implementation has provided the Commission with a “to do” list, these are responsibilities that are in addition to the ongoing work of the organization.

Charge complaints, created by OSRA, is generating a considerable amount of work for our investigators and enforcement attorneys. The public has responded favorably to the option of submitting billing complaints under a streamlined process allowing for more rapid review of claims than the other pre-existing options that were available at the Commission. Between June 16, 2022, and March 14, 2023, 260 charge complaints have been filed, 97 of which were perfected and assigned for investigation. Except for one case where the Commission’s Bureau of Enforcement, Investigations, and Compliance issued a “Show Cause” order (that is still pending) all other cases have been voluntarily settled by the ocean carriers once the disputed charge has been brought to their attention. Approximately \$800,000 in charges have been waived or refunded. Processing charge complaints requires the work of staff from our Office of the Secretary, the Bureau of Investigations, and the Bureau of Enforcement. We are assessing the requirements for accepting, investigating, and adjudicating charge complaints to make certain we have sufficient resources devoted to this effort.

The charge complaint statistics referenced above do not reflect charge mitigation that is taking place directly between carriers and shippers. We are collecting information from the top nine ocean carriers calling the United States on demurrage and detention billing through our Vessel-Operating Common Carrier (VOCC) Audit Program. Beginning in Quarter One Calendar Year 2022, the indices for collected and billed detention and demurrage began declining and in Quarter Two 2022, the rate of waived charges was rising. We believe that data will continue to show reductions in billed and collected charges. Nonetheless, continued progress must be made in changing what I believe has become a practice of using demurrage and detention as a revenue center as opposed to strictly an incentive to pick-up cargo and return equipment. We will be carefully monitoring information we gather on fees as one way to measure compliance with our rule on demurrage and detention.

ENFORCEMENT, COMPLIANCE, OVERSIGHT & CONSUMER ASSISTANCE

In April 2022, I directed the VOCC Audit Program to determine how ocean carriers are serving U.S. exporters and what proposals these companies had for doing

more to help American shippers reach overseas markets. Last December, the VOCC Audit Program began assessing how ocean carriers will comply with anti-retaliation provisions of OSRA with particular attention paid to instituted training programs and if they result in bottom-to-top awareness of the new prohibitions. We have found the VOCC Audit Program to be a productive tool for raising and resolving issues with ocean carriers.

The FMC protects competition in U.S. ocean transportation, ensuring that there is both efficiency and reliability in the supply chain for U.S. exporters and importers. The FMC's competition program consists of careful analysis of agreements. Oversight of agreements and the marketplace continues through the important work done by our Bureau of Trade Analysis (BTA). As I have testified before, ocean carrier alliance agreements are subject to the most frequent and close monitoring of any class of filed agreement. BTA's monitoring program provides the Commission with unequalled insight into the behavior and business decisions of ocean carriers participating in agreements. Unlike reviews of mergers and acquisitions, alliance agreement monitoring is continuous, and we receive detailed information on operational data, minutes from meetings among agreement principals, and minutes from regularly scheduled alliance meetings. In effect, we have insight into the alliances' commercial and operational decisions that goes straight to the companies' top leadership. We also have the ability to change alliance agreement reporting requirements as warranted. We did so twice during the past two years, most significantly in 2022 by requiring enhanced pricing and capacity information be filed as part of the monitoring process. I should add that it is not just ocean carriers who are subject to monitoring requirements. Monitoring requirements for marine terminal operator agreements on file at the Commission that have rate discussion authority (something that the carrier alliance agreements do not have) were changed over the past year to give BTA more insight into how these companies operate when they utilize an agreement.

We continue with efforts initiated last year to reorganize our investigative, enforcement, and compliance activities into a more capable and holistic enforcement function. Following Congressional approval, we established the Bureau of Enforcement, Investigations, and Compliance, bringing all those activities under one organization that will be led by a new director. Area Representatives were reclassified as Investigators and their public outreach responsibilities were reassigned to other parts of the Commission. This change removed any question as to the role of these field personnel and conveys the emphasis on enforcement I have brought during my tenure as Chairman. Further toward that effort, we are increasing the number of Investigators we have in total while simultaneously strategically expanding the size of BEIC by adding needed attorneys, investigative analysts, compliance analysts, and supervisors across all three programs.

Our reorganization efforts are showing results that include:

- As of March 1, 2023, there were 39 active cases on actions and practices of VOCCs and non-vessel-operating common carriers (NVOCCs);
- Preliminary actions have been taken against three large VOCCs and one NVOCC;
- One of the Commission's Administrative Law Judges recently issued a decision to accept a proposed \$950,000 settlement agreement reached between container company Wan Hai and BEIC; and,
- Compromise discussions are on-going with a NVOCC for providing service to unlicensed Ocean Transportation Intermediaries (OTI).

Though separate from BEIC, our Bureau of Certification and Licensing provides an important compliance function. Their continued administration of thousands of license applications, renewals, and revocations/suspensions of OTIs each year protects individuals who want to ship goods. When BCL learns of an OTI operating without a license, they work to bring that party into compliance, but if a company continues to refuse to meet their obligations under the law and regulations, then the case is turned over to BEIC for enforcement. Beyond OTI licensing, BCL is also responsible for the Passenger Vessel program which importantly provides protections to passengers embarking a cruise at a U.S. port.

Inquiries continue to come into CADRS at more than 1,500 communications annually. Requests for CADRS' aid cover almost any imaginable circumstance involved in international commerce and cruising. As part of our efforts to bolster the effectiveness of CADRS, we have added staff to this office including an export expert whose primary responsibility is aiding shippers who want to reach overseas markets. The volume of contacts CADRS fields has remained fairly consistent year-to-year and we have every reason to believe that these statistics will remain steady if not grow.

The Commission cannot conduct its work without the important support it receives from many other parts of the agency. We are working to identify which parts of our information technology infrastructure are in need of upgrading and working on a plan to prioritize the order of work that must be completed. Many of the Commission's systems are built on legacy technology and need to be improved or replaced. We have retained an outside technology consulting company to assist us with this effort and to help guide us to making the most beneficial acquisitions. This will be a longer-term effort likely taking several years to complete.

LOOKING FORWARD

We continue to invest in the capabilities necessary to have a workforce that is fully telework ready. The Commission was fortunate to have adopted this goal in the pre-pandemic era and when COVID forced staff to stop coming to the office, we were well prepared to work successfully from locations other than our offices. We are looking to identify any lessons learned from the past two years and incorporate them into future contingency plans.

Beyond investing in improving our existing IT infrastructure, we will acquire capabilities that will serve us into the future and benefit the public. We have invested in an updated rulemaking docketing system and are in the process of purchasing a court docket system to allow us to better manage not just cases our ALJs are working on, but also all other docketed proceedings of the Commission. We will build a data lake that will streamline data submission from regulated entities as well as data review, processing, and analysis by FMC staff. We have initiated a series of construction projects to meet that goal. We are also undertaking a refresh of our Hearing Room to make it more accessible to the public, of more utility to the Commission, and to undertake technology upgrades that will better serve the public who watch our proceedings via webcasts.

The Federal Maritime Commission is changing. Not only in response to congestion, legislation, and the priorities I set when I became Chairman, but also because international trade is changing. General David H. Petraeus warned recently at a large gathering of ocean shipping stakeholders that the era of "benign globalization" is over, and that geopolitical risk will have an even greater impact of trade flows than it has in the past. Clearly, we have entered an era where international trade patterns are less stable and more fraught with risk. Any event or economic issue taking place anywhere in the world has the potential to dramatically alter everyone's supply chains. The U.S. freight delivery system will face another disruption, the only question is when. My goal as Chairman is that the Commission will be nimble and capable enough to respond when the inevitable occurs.

The budget we are submitting makes important investments in our monitoring, enforcement, and consumer assistance functions. It permits us to hire the staff needed to do more enforcement, assist more exporters, and provide consumer assistance. This is an important juncture. Shippers and other parties turned to the Federal Maritime Commission in record numbers throughout the pandemic. Now is the time to invest in building the capabilities of the Commission so that it is prepared to continue to provide competition oversight and address violations of the law.

WRITTEN TESTIMONY SUBMITTED IN LIEU OF APPEARANCE OF NANCY WALLACE, DIRECTOR OF THE MARINE DEBRIS PROGRAM, OFFICE OF RESPONSE AND RESTORATION, NA- TIONAL OCEAN SERVICE, NATIONAL OCEANIC AND ATMOS- PHERIC ADMINISTRATION

INTRODUCTION

Good morning, Chairman Webster, Ranking Member Carbajal, and members of the Subcommittee, thank you for this opportunity to provide a Statement for the Record about marine debris and oil spill preparedness, response, and restoration. My name is Nancy Wallace, and I am the Director of the Marine Debris Program, within the National Ocean Service Office of Response and Restoration, at the National Oceanic and Atmospheric Administration (NOAA) within the Department of Commerce.

Marine Debris, as defined by the Marine Debris Act, is "any persistent solid material that is manufactured or processed and directly or indirectly, intentionally, or unintentionally, disposed of or abandoned into the marine environment or the Great Lakes (33 U.S.C. § 1956(3))." Marine debris ranges from lost or abandoned fishing gear and vessels, to plastics, glass, metal, and rubber of any size, and is an on-going international problem that impacts our natural resources. The NOAA Marine Debris

Program (MDP) leads national efforts to research, prevent, and reduce the impacts of marine debris. Authorized by the Marine Debris Act, as amended (33 U.S.C. § 1951 et seq., “Marine Debris Act”), the program supports marine debris projects in partnership with state and local agencies, tribes, non-governmental organizations, academia, and industry. NOAA spearheads national research efforts, engages with the Department of State and international organizations on global marine debris efforts, and works to change behavior through outreach and education initiatives.

NOAA recognizes that marine debris is a global problem and that there is no ‘one size fits all’ solution to addressing this issue on national and international scales. A recent study estimated that in 2016, as much as 23 million metric tons of plastic waste entered aquatic ecosystems from land around the world (Borelle et al., 2020). This number may seem huge, but it does not include marine debris items not made of plastic, or ocean-based marine debris, such as lost fishing gear and vessels. That number has also likely increased with time. If current practices continue, the amount of plastic discharged into the ocean could reach up to 53 million metric tons per year by 2030 (Borelle et al. 2020, Jambeck and Johnsen 2015, Pauly and Zeller 2016). The United States alone, despite a well-developed formal waste management system, contributed approximately 1 million to 2 million metric tons of plastic waste to the environment at home and abroad in 2016 (Law et al. 2020). It is clear that there is still much work to be done to find solutions to marine debris on both the national and international levels.

Today, I will focus my testimony on the Marine Debris Act, the impacts of marine debris in the ocean and Great Lakes, the program pillars of NOAA’s MDP, implementation of the Save Our Seas 2.0 Act, and H.R. 886, Save Our Seas 2.0 Amendments Act and NOAA’s oil spill preparedness, response, and damage assessment.

MARINE DEBRIS IMPACTS

Marine debris causes significant threats not only to ocean and coastal environments and wildlife, but also to human health, safety, and navigation. Each year, countless marine animals, sea turtles, and seabirds are injured or die because of entanglement in or ingestion of marine debris. Additionally, debris can scour, break, smother, or otherwise damage important marine habitat, such as coral reefs and tidal wetlands, that serve as the basis of marine ecosystems and are critical to the survival of many important species. Derelict fishing gear, such as nets and crab pots, can continue to capture fish—something we refer to as “ghost fishing”—for years after they are lost. Not only does this affect the species that end up as bycatch in the lost gear by reducing the abundance and reproductive capacity of the population, but it also causes fishermen economic losses. Marine debris can facilitate the introduction and range expansion of invasive species.

Marine debris also creates navigation hazards. Ropes, plastics, derelict fishing gear, and other objects can become entangled in vessel propellers or clog water intakes, causing operational problems. Larger items, such as lost shipping containers, can become collision dangers. Such interactions with marine debris involve costly engine repairs and disablement. Abandoned vessels are another navigational threat in our coastal waterways that have become a serious marine debris problem in many states. The dangerous and costly impacts of these different types of marine debris affect both the recreational boating and commercial shipping communities.

MARINE DEBRIS ACT

The MDP is authorized by Congress as the federal lead to work on marine debris through the Marine Debris Act. The Act authorizes the NOAA Administrator, through the MDP, to “identify, determine sources of, assess, prevent, reduce, and remove marine debris and address the adverse impacts of marine debris on the economy of the United States, marine environment, and navigation safety.” (33 U.S.C. § 1952). The Act further directs the Administrator, through the MDP, to “provide national and regional coordination to assist States, Indian tribes, and regional organizations,” “undertake efforts to reduce the adverse impacts of lost and discarded fishing gear on living marine resources and navigation safety,” “undertake outreach and education activities for the public and other stakeholders” on marine debris issues, develop “interagency plans for the timely response to events,” and “enter into cooperative agreements and contracts and provide financial assistance in the form of grants for projects to accomplish the purpose” of the Act. 33 U.S.C. § 1952(b)–(d). The 2012 amendments (P.L. 112–213) directed NOAA to address and determine severe marine debris events. The Save Our Seas Act of 2018 (P.L. 115–265), which reauthorized and amended the Marine Debris Act, directed NOAA to “promote international action, as appropriate, to reduce the incidence of marine debris” and, in the case of a severe marine debris event, to “assist in the cleanup and

response required by the severe marine debris event” or conduct such other activity as NOAA deems appropriate.

THE NOAA MARINE DEBRIS PROGRAM

The MDP, guided by the Marine Debris Act, is focused around six program pillars: prevention, removal, research, monitoring and detection, response, and coordination.

Prevention

One of the most effective ways to reduce marine debris is through prevention, which requires that boaters, fishermen, industry, and the general public have the knowledge and training to change the behaviors that create marine debris. NOAA’s robust outreach and education activities focus on improving awareness and changing behavior through developing and disseminating public information, and by partnering with and providing funding support to external groups including academic partners and nonprofit groups.

Removal

While prevention is essential to stemming the input of new debris into the ocean, removal is necessary to diminish the impacts of debris already introduced into the ocean and Great Lakes. The MDP provides funding through its removal grants competitive funding opportunity. The program also provides support to the annual International Coastal Cleanup.

Research

A key tenet of the MDP is research. Congress recognized the need for research that determines the sources and helps us understand the adverse impacts of debris on the marine environment and navigation safety (33 U.S.C. § 1952(b)(1)). Since its establishment, the MDP has funded research projects that help expand our understanding of debris by investigating where debris comes from, how it moves through the environment, and how it impacts wildlife and our ocean, waterways, and Great Lakes.

Monitoring and Detection

The MDP supports projects that generate monitoring and detection data, involve the public, incorporate innovative technologies, and provide guidance to the marine debris community. Monitoring and detection efforts improve our understanding of the scope, scale, and distribution of marine debris in the environment, as well as provides critical data on the types and amount of debris, which can inform management practices and prevention. In particular, the MDP maintains the NOAA Marine Debris Monitoring and Assessment Project, an initiative that helps answer fundamental questions about the types of marine debris found on shorelines.

Response

Coastal storms and natural disasters are another source of marine debris that create hazards in our inland and coastal waters. NOAA has responded to emergency events including Hurricanes Florence, Michael, Harvey, Irma, and Maria, and Typhoon Yutu. The MDP also works before disasters strike to help communities prepare to respond to marine debris. As part of this work, the MDP partners with coastal states and U.S. territories to develop state/territory-specific marine debris emergency response guides. These guides outline the processes and roles of each partner for responding to and recovering from a severe marine debris event, such as a hurricane.

Regional Coordination

The MDP works with local communities to address region-specific marine debris issues. The MDP has 11 Regional Coordinators working in Alaska, the Pacific Northwest, California, the Pacific Islands, the Gulf of Mexico, Florida, the Caribbean, the Southeast, the Mid-Atlantic, the Northeast, and the Great Lakes to support projects and partnerships with state and local agencies, tribes, nongovernmental organizations, academia, and industry that addresses marine debris locally.

The MDP Regional Coordinators also work with partners to develop and implement regional marine debris action plans. These action plans focus on long-term solutions to the causes and impacts of marine debris in the regions, as well as outline operational best practices and data collection protocols. The purpose of these action plans is to aid states in preventing and reducing debris and mitigating coastal impacts.

National Coordination

As authorized in the Marine Debris Act, 33 U.S.C. § 1954, NOAA is the chair of the Interagency Marine Debris Coordinating Committee (IMDCC), a multi-agency body that is responsible for streamlining the federal government's efforts to address marine debris. Representative agencies coordinate a comprehensive program of marine debris activities and report to Congress every two years on research priorities, monitoring techniques, educational programs, and regulatory action. Members include: the Departments of Energy, Interior, Justice, and State; the U.S. Environmental Protection Agency; the U.S. Coast Guard; the U.S. Navy; the Marine Mammal Commission; the National Aeronautics and Space Administration; the National Science Foundation; and the U.S. Agency for International Development.

In addition to the IMDCC, the program also partners with other agencies on funded projects. For example, the MDP provides support for missions to remove marine debris from Papahānaumokuākea Marine National Monument. Project partners for these missions have included the National Fish and Wildlife Foundation, Papahānaumokuākea Marine Debris Project, U.S. Fish and Wildlife Service, State of Hawaii, and other NOAA programs. In Fiscal Year 2021, the mission removed 118,400 pounds of derelict fishing nets and nearly 5,300 pounds of plastic and other debris.

International Engagement

There are many ongoing international, multilateral, and bilateral initiatives to understand and combat the issue of marine debris across the world. The MDP works closely with the Department of State and other U.S. national agencies to provide input and leadership on the issue, and also collaborates with other countries to research, prevent, and remove marine debris.

IMPLEMENTATION OF THE SAVE OUR SEAS 2.0 ACT

The Save Our Seas (“SOS”) 2.0 Act (P.L. 116–224) was signed into law on December 18, 2020. The Act contains three titles that address: (1) the United States’ domestic programs to combat marine debris, (2) international engagement to combat marine debris, and (3) domestic infrastructure to prevent marine debris. The lead agencies with responsibilities under the Titles of the Act are NOAA, the Department of State, and the Environmental Protection Agency, respectively.

Significant components of the SOS 2.0 Act within NOAA’s jurisdiction include:

- Clarifying the scope of the Marine Debris Act to include waters in the jurisdiction of the United States, the high seas, and waters in the jurisdiction of other countries (Sec. 101);
- Establishing a Marine Debris Foundation (Subtitle B);
- Establishing a Genius Prize for Save Our Seas Innovation (Subtitle C); and
- Requiring several new reports and studies on different aspects of marine debris (Subtitle D), including the sources and impacts of derelict fishing gear, innovative uses of plastic waste, microfiber pollution, vessel recycling, and the United States’ contribution to global plastic pollution, as well as a pilot program for providing incentives to fishermen to collect and dispose of plastic found at sea.

Marine Debris Foundation

The SOS 2.0 Act (33 U.S.C. § 4211 et. seq.) also established the Marine Debris Foundation as a charitable and nonprofit organization (33 U.S.C. § 4211). The Marine Debris Foundation is charged with augmenting the efforts of NOAA to assess, prevent, reduce, and remove marine debris, and with taking actions to support other Federal agencies, and other entities, to address marine debris (33 U.S.C. § 4211(b)). The SOS 2.0 Act specifies that the Under Secretary of Commerce for Oceans and Atmosphere (NOAA Administrator) is responsible for appointing, and serves on, the Board of Directors of the Marine Debris Foundation (33 U.S.C. § 4212(a)).

On April 6, 2022, NOAA announced the inaugural Board of Directors for the new Marine Debris Foundation. The appointment of the inaugural Board of Directors was approved by the Secretary of Commerce, consistent with the Presidential signing statement for the Save Our Seas 2.0 Act. The 12 new Board members bring a diverse range of expertise, experience, and perspectives. The Foundation will be an important partner to NOAA and other entities in the United States who are tackling the immense challenges that marine debris poses to nature, human health, and the U.S. economy.

Studies and Reports

The SOS 2.0 Act requires the MDP to undertake several studies and reports as described below. The MDP has completed or is in the process of completing the stud-

ies and reports using several avenues, including existing grant-funded projects, new grant awards, new contracts, and collaboration with other federal agencies.

Section 131 requires the IMDCC to submit a report to Congress on innovative uses of plastic waste in consumer products. As vice-chair of the IMDCC, the Environmental Protection Agency (EPA) has taken the lead on implementation of this report.

Section 132 requires the IMDCC to submit a report to Congress on microfiber pollution. The MDP is working closely with the EPA on this report. The draft report, and the five-year federal action plan contained within it, went out for a 30-day public comment period on September 15, 2022. The report is undergoing interagency review.

Section 133 requires NOAA to fund the National Academies of Sciences, Engineering and Medicine to conduct a study on the contributions of the United States to global ocean plastic waste. This study was released in December 2021, and the MDP is working under our current authorities on implementation of actions and activities that address the report recommendations.

Section 135 requires NOAA to submit a report to Congress on the sources and impacts of derelict fishing gear. This report is under development.

Section 136 requires NOAA to conduct a study to determine the feasibility of a nationwide vessel recycling program, using a pilot project in Rhode Island as a model. On February 8, 2023, the MDP published a report, Recycling Opportunities for Abandoned, Derelict, and End-of-Life Recreational Vessels, that summarizes the completed study. The report, created by the Rhode Island Marine Trades Association Foundation in partnership with the MDP and National Marine Sanctuary Foundation, identifies challenges associated with recycling fiberglass vessels and outlines the steps necessary to build a viable nationwide recycling program.

Section 137 requires NOAA to establish a pilot program to assess the feasibility and advisability of providing incentives to fishermen to collect and dispose of plastic found at sea. Through the MDP's FY22 competitive grant funding opportunity, we awarded funding to Mississippi Commercial Fisheries United, Inc. to develop and implement a pilot program. The project will conclude in August 2025, and we will work with the grantee to document lessons learned on the project's feasibility and advisability.

Section 307 requires the EPA and the IMDCC to conduct a study on minimizing the creation of new plastic waste. The EPA has taken the lead on implementation of this report.

Genius Prize

The SOS 2.0 Act also establishes a Genius Prize for Save Our Seas Innovation and authorizes the Secretary of Commerce to offer to enter into an agreement with the Marine Debris Foundation to administer the prize competition. The FY 24 Budget includes funding to support a Genius Prize for marine debris.

H.R. 886, SAVE OUR SEAS 2.0 AMENDMENTS ACT

If enacted, H.R. 886, Save Our Seas 2.0 Amendments Act, would amend the SOS 2.0 Act by:

- Providing technical and administrative corrections to the operation of the Marine Debris Foundation. For example, it would change the title of the "first officer or employee appointed by the Board" from "chief operating officer" to "chief executive officer" to align with common terminology used in the non-profit sector.
- Adding the U.S. Agency for International Development as a named agency for consultation before removal of a Director, and would clarify that the Board shall submit recommendations on new Directors to the Under Secretary.
- Adding clarification on the location of the Marine Debris Foundation's principal office and a new directive on development and implementation of "best practices for conducting outreach to Indian Tribes."
- Aligning the Marine Debris Foundation's operation into alignment with other Congressionally chartered non-profits and remove restrictions that inhibited the Marine Debris Foundation from effectively beginning operations.
- Authorizing up to twelve percent of federal funds appropriated to the Department of Commerce to carry out SOS 2.0 to be used to offset administrative expenses of the Marine Debris Foundation.
- Specifying that the 24-month window for use of federal funds for salaries of the Marine Debris Foundation begins at the enactment of the Amendments Act; and would expand the list of non-federal entities whose contributions to the Marine Debris Foundation may be matched using federal funds.

H.R. 886 would also amend the Marine Debris Act by:

- Providing more flexibility to enter into different types of agreements and to work with non-profits and individuals;
- Enabling third parties to provide funding to NOAA for projects without having to reimburse actual costs; and
- Implementing a technical fix to allow discretionary cost-share waiver for grants to address severe marine debris events.

We appreciate the close coordination with the Committees and sponsor offices and the opportunity to provide important clarifications to help guide NOAA's work with the Marine Debris Foundation and other partners.

H.R. 886 also contains language in the new section on receipt and expenditure of funds that would make available funds—"only to the extent provided in advance in appropriations acts".

OIL SPILL PREPAREDNESS, RESPONSE, AND DAMAGE ASSESSMENT

NOAA's Office of Response and Restoration (OR&R) is a center of expertise in preparing for, evaluating, and responding to threats to coastal environments, including oil and chemical spills, releases from hazardous waste sites, natural disasters, and marine debris. OR&R staff are located around the country to work with local and regional partners to address the impacts of environmental threats to our coastal communities.

Under laws such as the Oil Pollution Act of 1990 (OPA); Clean Water Act; Comprehensive Environmental Response, Compensation, and Liability Act (known as CERCLA or Superfund); and National Marine Sanctuaries Act, NOAA is a trustee for the public's natural resources, charged with protecting and restoring them when impacted by oil and chemical spills, hazardous waste sites, and vessel groundings. In addition to these authorizations, OR&R also has a role supporting the Federal Emergency Management Agency and other federal agencies under Presidential Policy Directives 8 and 44 for natural disasters and other incidents. OR&R strives to fulfill our mission of protecting and restoring NOAA trust resources by providing scientific and technical support to prevent and prepare for, respond to, and recover from marine pollution.

Preparedness

Following the devastating 2017 hurricane season, and to address the realities of increased natural and human-caused coastal threats, NOAA created the Disaster Preparedness Program within OR&R. This program is focused on strengthening existing operational capabilities to ensure that NOAA's National Ocean Service and its partners have the tools necessary to help plan for and respond to disasters so commerce, communities, and natural resources can recover as quickly as possible. OR&R supports disaster preparedness for NOAA and our partners through planning, training, exercises, disaster coordination, continuous improvement, and long-term recovery for an optimal preparedness posture.

Response

Thousands of incidents occur each year in which oil or chemicals are released into the environment as a result of accidents or natural disasters. Spills into our coastal waters and inland waterways, whether accidental or intentional, can harm people and the environment and cause substantial disruption of marine transportation with potential widespread economic impacts.

Every year, OR&R responds to approximately 150 oil and chemical spills in U.S. waters. Under the National Response Framework and the National Contingency Plan, NOAA has responsibility for providing scientific support to the federal on-scene coordinator and other federal partners for oil and hazardous material spills. To support this work, we provide response to incidents 24 hours a day, seven days a week. When an incident occurs, OR&R's scientific support coordinators compile scientific inputs and deliver this critical information to the federal on-scene coordinator and other federal partners. Through the use of our customized tools, models, and products, information is available to provide responders with the science they depend on to protect our coastal communities.

Damage Assessment

OPA authorized NOAA and other natural resource trustees to recover damages from parties responsible for oil pollution to cover the costs of damage assessment and restoration planning and restoration implementation. Based on this authority and comparable damage assessment authority for hazardous substances under CERCLA, NOAA established a program for such assessment and restoration. Under this program, OR&R is responsible for evaluating and restoring coastal and estua-

rine habitats impacted by hazardous waste releases, oil spills, and vessel groundings. Our team assesses ecological risk and environmental and economic injury from contamination and ship groundings.

To fully accomplish this mission, OR&R works with NOAA's General Counsel for Natural Resources and the NOAA Office of Habitat Conservation to administer the Damage Assessment, Remediation, and Restoration Program (DARRP). This program holds polluters accountable for restoration of natural resources and human uses lost or injured by oil or hazardous substances, saving the taxpayer the direct cost of restoration. On average, even after setting aside Exxon Valdez and Deepwater Horizon settlements, the program has delivered four dollars of restoration for every one dollar invested in DARRP support. To date, the partnership has recovered over \$10.6 billion dollars to restore a wide variety of critical habitats and resources nationwide.

Recent Accomplishments

In fiscal year 2022, OR&R:

- helped to recover \$114 million from pollution settlements for restoration in five states: New Jersey, Texas, Louisiana, Hawaii, and Pennsylvania;
- partnered with NOAA's National Sea Grant office to establish a new funding opportunity to improve disaster preparedness within coastal communities;
- supported response efforts to 151 oil spills, chemical releases, and other incident responses;
- worked with the U.S. Coast Guard to conduct important research on characterizing oil on water in ice environments at three locations in the Arctic;
- and trained over 2,500 responders in disaster preparedness, oil and chemical spill response, and planning.

These accomplishments demonstrate our dedication to science-based solutions for protecting and restoring natural resources from coastal hazards thus benefiting the environment, public, and economy.

CONCLUSION

The efforts of NOAA's Office of Response and Restoration span the emergency management cycle from preparedness to response and restoration with particular emphasis on applying NOAA scientific and operational capabilities to coastal disasters including pollution from oil, chemical, and marine debris. We will continue this critical work to protect and restore the nation's oceans, coasts, and communities from increasing environmental threats. With our allocated resources, OR&R will remain agile as these needs evolve during a time of changing climate.

While the problem of marine debris has existed for decades and has received considerable attention from NOAA and other partners, there is still much to learn as we work to address the impacts of marine debris on the environment, marine species, and human health and safety. NOAA is committed to investigating and preventing the adverse impacts of marine debris and looks forward to working with the Committee.

Thank you very much for the opportunity to provide a Statement for the Record. I would be happy to answer any questions you may have.

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Mr. WEBSTER OF FLORIDA. Thank you so much. I appreciate it. Well, we will start with our questioning. I will be first.

And Admiral Phillips, planned deepwater ports in the Gulf of Mexico are experiencing very long delays in their application process to receive construction permits from MARAD. I am not really sure why that is happening, it's just not going.

The permitting process outlined in the Deepwater Port Act of 1974 specifies that the process from application to issuance of a decision by the Secretary of Transportation should take no longer than 1 year, 365 days. However, several current pending applications were initially submitted several years ago and have been delayed by excessive requests from MARAD for supplemental technical and environmental information, suspending the statutory process timeline. Applicants also report a lack of communication and transparency from MARAD on where the process stands and what they can do to provide the needed information.

First of all, why is MARAD failing to process these applications in a timely manner as outlined by law?

And when is the decision expected for the Texas GulfLink permit, which has now been languishing for nearly 1,200 days?

And anyway, maybe I will continue on, and then you can come back and answer those two questions. OK?

I would like to shift now to discuss the Port Infrastructure Development Program. Current law provides funds from this program to be used for fully automated cargo handling equipment. As greater amounts of cargo enter the ports, many port and terminal operators are working to optimize and improve operations, including technology and automated systems that have the potential to improve container throughput. At the same time, longshore unions have resisted a transition to these new technologies.

What role does automation play in improving and optimizing the capacity to move cargo through the ports?

Additionally, why did MARAD include the prohibition on using funds to procure fully automated cargo handling equipment in the notice of funding opportunity for the United States Marine Highway Grant program, when it was not directed by legislation?

And then lastly, I would like to address a topic that has been the subject of recent news reports. A recent Washington Post article highlighted the potential cybersecurity threat that Chinese-manufactured cranes pose to our national security, serving as intelligence-gathering devices capable of tracking the movement of goods at the ports. Section 3529 of the most recent NDAA directed MARAD to lead a report on this topic.

Are there any early findings from the study or general highlights on the topic that you would like to share? If you could talk about those, that would be great.

Admiral PHILLIPS. Thank you, Mr. Chairman. I will start with the cranes first.

First of all, as you point out, we are tasked within the 2023 NDAA to do a report, an unclassified report on the topic of cyber threat, potential cyber threat related to cranes, particularly those that are manufactured in China. We are to do that report in concert with a number of interagency partners: CISA, Coast Guard,

DHS, and others, and we are doing so. We have just begun meeting with all of them.

And I would comment that much of the existing reporting and information on this particular problem is classified, and so, those reports and those meetings are taking place in a classified environment. So, we will continue to produce and work towards producing this report as directed by the NDAA.

I think at present our findings are that much more work needs to be done. And consistent with that, certainly, you are aware of the broader challenges with anything that is connected to the internet and that is cyber.

Sir, if I may move to U.S. Marine Highways and automation, we are under law by the 2023 NDAA required under the PIDP program to report to Congress any aspect of a PIDP application grant that results in a net loss of jobs. And we added that notification, which is included in the PIDP NOFO to the U.S. Marine Highways NOFO, as well, to make them consistent with what we believe to be Congress' intent there.

If I may continue, sir, on deepwater ports—I realize I have used up my time—we anticipate we will be able to move forward with a Record of Decision on the GulfLink project later this year.

On the topic of the length of time it takes to implement and execute a deepwater port process to get to a legally defensible Record of Decision, we find that these are extremely complicated circumstances, and as under the law we have the authority to put a stop clock on the process if we find that there is missing information from either the applicant or a special request by agencies—and we work with more than 20 Federal agencies in completing this process—we do that, we put a stop clock in place to allow applicants to respond.

I would take issue with the inference that we do not communicate with applicants. We communicate routinely with applicants, and I would reference in particular the completion of the SPOT Record of Decision last November. Prior to completing that Record of Decision for that particular application, we were meeting weekly with that applicant. So, we do interact with applicants on a continued basis.

I would also point out that the longest pending application is on hold more than 1,000 days, at the request of the applicant. So, in my opinion, it is to the applicant's benefit that we have this opportunity to stop the clock to allow them to refine their application so that we can move forward, scrupulously following the law and with the obligation and intent of a legally defensible Record of Decision, so that we can move forward.

Mr. WEBSTER OF FLORIDA. OK. Well, my time has expired. So, I will go to Mr. Carbajal.

You have questions? You are recognized.

Mr. CARBAJAL. Mr. Chairman, your time is never expired.

[Laughter.]

Mr. CARBAJAL. Yes. Thank you, Mr. Chairman.

Admiral Phillips, I am proud to have played a role in the passage of the sweeping legislation included in the NDAA last year addressing sexual assault and sexual harassment in the commercial maritime industry, as well as the Merchant Marine Academy.

But I recognize that your work, and likely our work, is not done. I have heard repeated concerns about trouble recruiting and retaining commercial mariners. While we examine other ways to attract more individuals to the industry, how important is it that the industry becomes safer and more inclusive? And are you facing difficulty recruiting students to the Academy?

Admiral PHILLIPS. Thank you for that question, Ranking Member Carabajal.

I would say, in the context of recruiting, we are finding the same challenges that many other institutions are finding. Applications dipped last year, they are some better this year, and we are finding that we are indeed able to recruit students, and yet still are facing challenges, as are other academic institutions. I wouldn't draw any particular conclusions there.

However, moving forward to the issue of safety and security within the maritime industry, it is absolutely paramount that, as you point out, we continue this journey. We are at the beginning of a journey, not the end. And we thank the committee for its support by putting EMBARC into law, and have continued to take and have taken significant steps at the Academy to strengthen both their sexual assault prevention and response programs to ensure that midshipmen understand what their rights and requirements are at sea. We have issued them satellite cell phones, as you know. They are voice activated. They can contact anyone at any time if they feel they must for any reason. We have ensured that there is an amnesty policy, so, people may come forward without fear of any other application being held against them in particular.

And I can also say that we have taken the time to explain the legislation with the Coast Guard and others at the Academy in a session we held January 23rd with midshipmen, and later that afternoon with the entire EMBARC-certified community.

So, as you suggest, this is the beginning of a journey, it is not the end. There is much more to be done, and we continue to move forward, and we will continue to move forward, and thank the committee.

Mr. CARBAJAL. Are companies complying with the new program? Are they still signing up? Is there still momentum there?

Admiral PHILLIPS. As I stated in my opening testimony, sir—thank you again for that question—the 16 operators and companies who are required by law to be in the EMBARC program are in the EMBARC program.

Mr. CARBAJAL. Thank you.

Admiral PHILLIPS. That includes more than 140 vessels.

Mr. CARBAJAL. Thank you very much. Admiral Phillips, we know the impact that the Port Infrastructure Development Program will have in reducing emissions in and around the ports, as well as providing low- and no-emission fuels to vessels.

There needs to be new development and infrastructure of landside facilities like the Morro Bay project in my district if we are to meet President Biden's 2030 decarbonization goals. What is the potential impact of PIDP-funded projects on offshore wind deployment?

Admiral PHILLIPS. Thank you for that question, Ranking Member Carabajal.

Sir, as you may be aware, in last year's PIDP grant awards, there were at least four projects that were related to offshore wind deployment, totaling almost \$100 million in grant responses. We expect more applicants this year will be tied to offshore wind development, and we look forward to reviewing those applications and helping to move them forward.

There is certainly considerable potential within PIDP to facilitate additional capacity in supporting offshore wind.

Mr. CARBAJAL. Thank you.

Chairman Maffei, among other things, the Ocean Shipping Reform Act tasked you with several difficult rulemakings. Can you report on the progress of those rulemakings, including the "unreasonable refusal to deal or negotiate" rulemaking?

Are you confident that they are going to result in a more equitable and transparent maritime supply chain?

In response to heightened Federal attention, as well as the passage of OSRA, have carriers taken action to ensure a level playing ground for U.S. exporters?

Mr. MAFFEI. Yes. So, just in general, we have done a number of rulemakings in line with OSRA, but the two major ones that I call landmark rulemakings are the one to refine our detention and demurrage billing rules, to take the precedent already set by the Commissioner Rebecca Dye-authored interpretive rule, and apply that in a—basically put more leaves on that tree. We are working now on the final rule for that.

Where it has gone a little slower than I wanted was in this refusal to deal rulemaking. The reason for that, though, is not a bad reason. It is because we have gotten so many comments from 27 entities, lots of whom had very, very good points. The issue here is we are trying to maximize the benefits for U.S. exporters, while minimizing any unintended consequences that then might harm them.

So, I would say that that is about the trickiest rulemaking we have ever done, but I think we are making very good progress. I will say that it is not going to be as narrow as just looking at the so-called refusal to deal provision, because I believe the intent of Congress was to look at also the provision that does not allow carriers to unreasonably refuse to take exports, which is in a slightly different part of the bill, but I view just as important. So—

Mr. CARBAJAL [interrupting]. Thank you, Mr. Chairman. I am out of time. I yield back.

Mr. MAFFEI. I think I answered. So, thank you.

Mr. WEBSTER OF FLORIDA. Thank you very much.

Representative González-Colón, you are recognized for 5 minutes.

Mrs. GONZÁLEZ-COLÓN [microphone was off at the beginning of remarks]. . . . back in the ports in Puerto Rico [inaudible]. So, I just wanted to take the opportunity to make a point that MARAD and the U.S.-flagged fleet have been important partners for Puerto Rico. And in support of Puerto Rico for the regular service of our Jones Act carriers, provide stability and reliability to Puerto Rico's supply chain, both for consumers and for industry. And the U.S. domestic shipping fleet is a vital asset for our Nation, but is our main source of goods on the island. So, I am proud that I say that I support this industry, and I will continue to do so.

I've got a question for Admiral Phillips, and it is an issue we saw during the last weeks in Puerto Rico. And I want to bring up the issue of security within our maritime transportation system.

Last week, U.S. Customs and the Coast Guard at the Port of San Juan detained 18 illegal migrants who had stowed away aboard a container barge arriving from Jacksonville, Florida. As the vessel approached San Juan, 16 of those people jumped and attempted to swim ashore, and they were rescued by the Coast Guard at the time. Then, when customs agents searched the barge, they found the remaining two migrants, 25 pounds of cocaine, and a firearm.

Customs officials told the press that they suspect the migrants scrambled aboard as the vessel passed waters of the Dominican Republic on its way to Puerto Rico. While the investigation is ongoing to determine exactly what happened, it raised questions about vulnerabilities and security risks if 18 people were able to jump on board a barge traveling between 2 U.S. ports supposedly undetected.

So, my question would be how the U.S. Maritime Administration works to coordinate with law enforcement partners and private-sector stakeholders to address or mediate security issues within our maritime transportation system and how this fiscal year budget request may help support those efforts.

Admiral PHILLIPS. So, thank you, Congresswoman González-Colón. It is very nice to meet you, ma'am.

I am not aware of the situation you are describing, and I find it alarming. What MARAD would do in such a circumstance, knowing that the Coast Guard has been involved and Customs has already been involved, is ascertain the details and more than likely put out—which we do routinely—a notice to our fleet, to our U.S.-flag fleet, through our very modest security department, to ensure that our carriers are aware of the circumstance and the events surrounding it as a warning to them that they should be prepared for such things, and going through with them how they could report it, and the kinds of things they should do to prepare to prevent such an action.

Mrs. GONZÁLEZ-COLÓN. What happened in San Juan is not the first time that happened in Puerto Rico. I don't know if we do have more cases like those in the rest of the Nation, whether you are aware. Do we have more cases like that?

Admiral PHILLIPS. Well, I am certainly aware that we have had cases long term, based on my Navy experience, with such activities. But I would take that question for the record, ma'am, if I may, and certainly we will investigate and do what is within our authorities to make our U.S.-flag fleet aware, and make sure they are very vigilant in response.

Mrs. GONZÁLEZ-COLÓN. Thank you, Admiral, and thank you, Chairman.

Mr. Chairman, I just want to introduce for the record a statement from the president of the National Association of Waterfront Employers for this fiscal year budget request, just to be on the record, if you would allow that.

Mr. WEBSTER OF FLORIDA. Without objection.

[The information follows:]

Statement of Richard W. Murray, President, National Association of Waterfront Employers, Submitted for the Record by Hon. Jenniffer González-Colón

Chairman Webster, Ranking Member Carbajal, and the Members of the Subcommittee on Coast Guard and Maritime Transportation, the National Association of Waterfront Employers (“NAWE”) appreciates the opportunity to submit its views on the requested Fiscal Year (“FY”) 2024 budgets for maritime transportation programs as well as the implementation of the Ocean Shipping Reform Act of 2022 (“OSRA”). As the voice for U.S. stevedores and marine terminal operators (“MTOs”) in Washington, DC, NAWA is uniquely aware of the tremendous impact that federal funding allocated through maritime programs can have upon U.S. marine terminal operations. Moreover, NAWA has been consistently engaged with the Federal Maritime Commission (“FMC”) on OSRA’s implementation and is grateful for this Subcommittee’s oversight, ensuring that OSRA is implemented consistent with the intent of Congress.

MARINE TERMINAL INFRASTRUCTURE FUNDING

The proposed FY 2024 budget includes \$230 million for the Port Infrastructure Development Program (“PIDP”) administered by the U.S. Department of Transportation, Maritime Administration (“MARAD”). Notably, if adopted in its proposed form, MARAD would be directed to “prioritize projects that also lower emissions” in an effort to reduce the environmental impact of America’s ports. This funding prioritization is consistent with the requirement to meet decarbonization goals under the Inflation Reduction Act’s Clean Ports program, enacted during the prior Congress.

The key to achieving these environmental goals is the purchase of zero- or near-zero emissions port equipment to replace existing cargo handling equipment. Support from this Subcommittee for funding opportunities for private MTOs, including through the PIDP, will be crucial to support these costly next-generation equipment upgrades. For example, a single diesel tractor used at a marine terminal today can cost around \$150,000, while an electric tractor and its charging infrastructure could cost close to \$600,000. Moreover, the utility infrastructure at ports will need to be adapted to allow MTOs to charge their cargo handling equipment and draw more electricity from the grid. In aggregate, the purchase of zero- or near-zero emissions port equipment and the related infrastructure throughout American ports will cost private MTOs tens or even hundreds of billions of dollars. Accordingly, significant support from this Subcommittee through maritime programs such as PIDP, will be necessary to achieve the Government’s port decarbonization goals.

In addition to the overwhelming costs, there are significant challenges in sourcing American-made zero- or near-zero emissions port equipment. Domestic manufacturers are currently partnering with battery suppliers to build specialized electric port equipment, however, there are still many types of cargo handling equipment that are not available in the United States. Accordingly, NAWA encourages this Subcommittee to adopt a measure of flexibility to allow the use of PIDP funding to purchase *domestically unavailable* next generation cargo handling equipment.

OSRA IMPLEMENTATION

This Subcommittee should commend the FMC for its efforts to implement OSRA in a timely manner and, more importantly, consistent with the public engagement principles of the Administrative Procedure Act. As result of these efforts, it may prove impossible for the FMC to meet Congressionally-mandated timelines, however, it is critical that the Commission take the necessary time to engage with maritime stakeholders to ensure that OSRA is implemented in a considered fashion and *consistent with the intent of Congress*. Moreover, it is critical for this Subcommittee to allow the regulatory process to fully develop. Taking additional legislative action to further amend or build upon OSRA’s directives before the full regulatory process is complete—and the resulting impacts evaluated—will add uncertainty to the maritime supply chain, potentially causing delays and adding unnecessary transportation costs. Accordingly, we urge this Subcommittee’s members to oppose further amendments to OSRA at the present time and, instead, to provide appropriate oversight to ensure that the FMC is successfully implementing the current law consistent with the intent of Congress.

Substantively, NAWA’s members are concerned about the manner in which the FMC is proposing to implement OSRA as well as the manner in which it is cur-

rently applying the “Incentive Principle” under the Shipping Act. Specifically, NAWE is concerned that (a) the Commission’s Notice of Proposed Rulemaking (“NPRM”) regarding demurrage and detention billing requirements is deviating from the clear Congressional intent, and (b) that the FMC is applying the Incentive Principle in a manner that may actually disincentivize the flow of cargo.

(1) The Proposed Rule is Inconsistent with Supply Chain Relationships

The FMC’s October 2022 NPRM unfortunately chose to ignore the express Congressional intent by broadly sweeping MTOs into OSRA’s substantive demurrage billing requirements. By doing so, the FMC is setting up its regulations for failure. Of primary concern is the fact that the NPRM requires MTOs to have a contractual relationship with cargo owners, which is at odds with the longstanding contractual relationships in the maritime supply chain. This part of the NPRM is, quite simply, incorrect and would force unnatural business relationships within the supply chain. Under longstanding industry practices, MTOs lack any sort of direct contractual relationship with shippers or beneficial cargo owners. *The MTOs’ only customers are the ocean carriers.* Accordingly, because there is no direct relationship between the MTOs and shippers, MTOs lack direct information as to why a shipper’s container remains on terminal property past free time. All that is known to the MTO is that the container has stayed at the terminal past its designated free time, taking up valuable terminal space that cannot be occupied by other import or export containers. Congress recognized these challenges in choosing to exclude MTOs from OSRA’s demurrage billing requirements, and the FMC must follow this intent in its regulatory implementation.

In addition, implementing the FMC’s proposed regulations would require MTOs to abandon existing, efficient practices in which terminal demurrage is charged and paid via electronic appointment booking systems, simultaneously when a container retrieval appointment is made by the shipper’s agent. This system has been effective in incentivizing the flow of cargo, and the payment of properly-imposed demurrage charges, to ensure that containers are moved off of marine terminals in a timely fashion. Accordingly, not only would the Commission’s proposed regulations be impossible because MTOs lack the contractual relationships necessary to obtain the relevant information, they would also slow the flow of cargo, undermining the recent successful efforts to mitigate supply chain congestion. NAWE therefore asks that this Subcommittee direct the FMC to take these concerns into consideration when issuing its detention and demurrage billing practices final rule.

(2) Demurrage and the Incentive Principle

In addition to the detention and demurrage NPRM, NAWE’s members are concerned about the FMC’s recent interpretation of the “Incentive Principle”, which the Commission uses to determine whether a detention or demurrage charge is “reasonable” under the Shipping Act. Notably, in a recent decision, the FMC determined that the imposition of equipment detention (essentially a fee charged by ocean carriers for use of their equipment beyond “free time”) on a holiday weekend was at odds with the “Incentive Principle” and therefore unreasonable under the Shipping Act. Notably, the shippers in the case had advanced notice that the marine terminal would be closed on the holiday weekend, but nonetheless chose to continue to hold the ocean carrier’s equipment. Despite this clear notice, and the fact that the shipper’s agent had every opportunity to return the equipment before the holiday weekend, the Commission deemed the detention charges unreasonable.

If this logic is extended to terminal demurrage, the result would actually “disincentivize” the timely removal of containers from marine terminals and would impede cargo fluidity at U.S. ports. The fundamental issue that appears to be misunderstood by many shippers is that *a marine terminal is not a warehouse*. MTOs pay for the use of some of the most expensive waterfront real estate in the country and, therefore, must be compensated when a shipper fails to remove its container in a timely fashion and improperly uses the marine terminal as a warehouse. Moreover, it is clear that the imposition of weekend and holiday terminal demurrage promotes cargo fluidity, consistent with the Incentive Principle. Such charges incentivize shippers to remove their containers *before* the weekend or holiday, if free time has expired, to avoid paying for such additional storage costs. In addition, if the shipper is given free storage on the weekend (at the MTO’s cost and to the detriment of other containers that may enter the terminal from ships over the weekend) it will actually disincentivize the flow of cargo, as shippers will want to take advantage of this government-imposed free service. The aggregate result therefore would be an *increase* in supply chain congestion at U.S. ports. Accordingly, we urge this Subcommittee to ensure that the Commission does not extend its recent policy decision to terminal demurrage.

* * *

NAWE appreciates this Subcommittee's leadership in supporting funding opportunities for U.S. marine terminal operators, in a manner that considers the realistic costs and availability of zero- or near-zero emissions cargo handling equipment. We are also thankful for this Subcommittee's oversight in ensuring that OSRA is implemented consistent with the intent of Congress. We look forward to continuing to work with this Subcommittee on these issues and ensuring the continued resiliency of the U.S. maritime supply chain.

Mrs. GONZÁLEZ-COLÓN. Thank you. I don't have any further questions. Thank you, and I yield back.

Mr. WEBSTER OF FLORIDA. Mr. Garamendi.

Mr. GARAMENDI. Thank you, Mr. Chairman and Ranking Member Salud. I want to thank you and the committee for the success we had last year in this committee with the passage of the Ocean Shipping Reform Act. I noticed you waived on my colleague in that process, Mr. Dusty Johnson, and I thank you for doing so.

Chairman Maffei, you gave credit for the significant decline to many things. Dusty and I think it is only due to the Ocean Shipping Reform Act.

[Laughter.]

Mr. GARAMENDI. So, you all understand that.

But like every piece of legislation, there is always more to be done. The actual legislation that passed this House was modified in the Senate, leaving out some very important elements that Mr. Johnson and I intend to try to add into the legislative process this year.

And so, one of those, Chairman Maffei, has to do with your authority to actually carry out the orders that your administrative law judges are working on. Your agency seems to be the only independent agency in the entire Federal Government that does not have the authority to implement its decisions about unfair practices. Certainly, we can go down through the Federal Trade Commission, the Securities and Exchange Commission, on and on. Every one of these independent Commissions has the authority to do so.

However, when your team decides that somebody is acting unlawfully or contrary to the law, you have got to go to court to get an order, rather than the other way around, giving an order and then, if the party doesn't like it, they can go to court and try to overturn your order. We have received a letter from two of your Commissioners, Max Vekich and Carl Bentzel, asking Congress to right this wrong, and to modify the Ocean Shipping Reform Act so that you actually have the authority to implement the decisions that you have.

So, my question to you is, do you support your other two Commissioners and this effort to try to modify, improve last year's law?

Mr. MAFFEI. Yes, Congressman Garamendi, I do support it. And I would say that even if the two Commissioners in question weren't sitting imposingly behind me.

[Laughter.]

Mr. GARAMENDI. Well, they are big men, but whatever the motivation, we appreciate your answer.

Also, I note that this bill is supported. Mr. Johnson and I will carry this bill through, hopefully, success and to the President.

And I also note that Mr. Johnson has some additional reforms that follow along on, I would say, some errors that the Senate made that he hopes to correct. And I look forward to the opportunity to work with him on that.

I wanted also to go to the issue of the sexual assault. Admiral, that has been covered extensively by my colleagues.

And I want to, therefore, just bring to your attention the ongoing issue that MARAD has to keep its ancient ships floating. If you would like to comment on that and spend the next minute and 30 seconds commenting on how you intend to keep those ships and/or replace them, I would appreciate that.

Admiral PHILLIPS. Yes, sir, Congressman Garamendi, thank you for that question. And I am happy to talk about EMBARC, and I am certainly happy to talk about ships.

As you are aware, we are working a Ready Reserve Force Recapitalization Program, which involves purchasing new vessels or used vessels—in particular, used vessels. We have purchased two, and are in the process of concluding a purchase, which we have notified Congress of, to bring in three more. These vessels will be coming on board later this year, and we will be working on flagging them in.

As you are aware, during the 2023 NDAA, we were authorized a new build program. However, that program was not appropriated. I would offer that, in the context of recapitalizing the Ready Reserve Force, it is an all-hands-on-deck evolution. The ships are aging, as you point out. Maintaining them is more costly, and buying used is very expensive, as well. So, every opportunity that is possible I think we should take.

Mr. GARAMENDI. Thank you. In my remaining 25 seconds, we will be bringing to this committee what we call the national Maritime Security Program, which is a program that is built upon some of the policies we already have in place, so that the Jones Act fleet—some of those ships could be militarily useful if they were modified or built in the future to be militarily useful. In that way, we might be able to provide the necessary logistical support that the Navy or the military would need, should anything occur in the Pacific. So, we will get more of that to the committee in the days ahead.

Thank you very much.

Mr. Johnson, what a pleasure to see you.

Mr. WEBSTER OF FLORIDA. Thank you.

Mr. Van Drew, you are recognized.

Dr. VAN DREW. Well, welcome to the House Subcommittee on Coast Guard and Maritime Transportation. Today, my remarks and questions will focus on this administration's—what I believe is a dangerous rush to industrialize our oceans with offshore wind.

To paint the picture for my colleagues, the proposed offshore wind projects are over 2 million acres in size and include over 3,000 wind turbines, each over 1,000 feet in height.

We—oh, I am sorry [adjusting microphone]. There we go. Do I have it now? Thank you.

To paint a picture for my colleagues, the proposed offshore wind project leases are over 2 million acres in size, and include over

3,000 wind turbines, each over 1,000 feet tall. The straight words are: We have never seen anything like this before.

Of concern to this subcommittee should be the effect of the maritime supply chain. The Bureau of Ocean Energy Management has determined that the impacts of wind turbines on navigation and vessel traffic will be “major,” and could result “in personal injury or loss of life.” It is obvious why these projects are dangerous.

First, offshore wind leases will obstruct major maritime traffic lanes. Thousands of vessels would be forced into tight bottlenecks.

Second, offshore wind structures interfere with navigational radar. This interference affects both commercial and military vessels, as well as search and rescue helicopters.

The fact is that maritime transit and offshore wind complexes will be difficult, and it will be dangerous, and our supply chain will become even more fragile. Congress must shine a light on the true costs of offshore wind industrialization, and hold this Government accountable.

I direct my questions to Rear Admiral Ann Phillips, Administrator for the United States Maritime Administration, and I thank you for your service to the United States Navy.

Since 1958, the Maritime Administration has regularly published the official instruction manual on collision avoidance radar, most recently in 2005. This matter is under your purview. Has the Maritime Administration conducted any assessments of the effect of offshore wind structures on collision avoidance radar? And if not, would you commit to investigating this phenomenon?

Admiral PHILLIPS. Thank you, Congressman Van Drew. To my knowledge, we have not conducted a specific investigation into the impacts on collision avoidance radar. I would certainly think that, if there were issues related to this, that the maritime industry would have contacted me.

However, I appreciate your interest in such a strong safety measure, and we will work with our fellow interagency to see what—

Dr. VAN DREW [interrupting]. And I will just remind you that it is a little tough sometimes on the maritime industry, and they have mentioned it numerous times.

You have been a vocal advocate of the offshore wind industry in your official capacity as Maritime Administrator. Before this job—and I don’t mean to be tough, just questions—you worked for Burdeshaw Associates, a consulting firm with connections to the wind industry going back a decade. Is that correct?

Admiral PHILLIPS. I did work for Burdeshaw probably more than a decade ago. Yes, sir.

Dr. VAN DREW. OK. You then served as a member of the Advisory Board for the Center for Climate and Security, which has received substantial funding from left-leaning political action groups and undisclosed donors. Is that correct?

Admiral PHILLIPS. It is correct that I served on the board of the Center for Climate and Security.

Dr. VAN DREW. OK. In your time as a civilian, did you receive compensation to consult or advise on any matters related to wind energy?

Admiral PHILLIPS. I did not.

Dr. VAN DREW. Development onshore or offshore?

Admiral PHILLIPS. I did not.

Dr. VAN DREW. OK. So, let me just say to the people that are here—and I know I don't have a lot of time left, either—I live on the east coast, obviously. I live—it is what is called the Jersey Shore. We now have along the east coast 25 dead whales. We have dozens of dead dolphins. We have never seen anything like it.

We have thousands upon tens of thousands of people now who—on the coast, whether it be Florida, whether it be New Jersey, whether it be New York—do not want these wind turbines. There has been much proof that they are actually going to cost a great deal of money, that people's utility rates are going to go up, it is going to cost them more, that it is dangerous to the environment, it is dangerous to the Cold Pool, which is a very environmentally sensitive area, it is dangerous to all this wildlife. The fishermen are against it. It is dangerous to the fishermen. And I would maintain that it is also dangerous for the maritime industry.

We are fully involved with this. We just had a hearing actually in-district—I guess it was about 10 days ago now, I would have to check, but it was recently. We had so many people there, so many folks concerned, we couldn't even get them all in the convention center.

So, I would tell you that, quite frankly, you are going to hear more from me, and you are going to hear more from people like Andy Biggs, and a whole bunch of other folks who are real concerned about this issue. Many other Congressmen have concern, and I wouldn't want this committee, which I sit on, to be in a vacuum and not realize the serious, serious concerns that there are out there. And this must be investigated. Thank you.

[Pause.]

Dr. VAN DREW. I kind of knew that would make everybody quiet.

Mr. WEBSTER OF FLORIDA. Thank you for that question.

Ranking Member Larsen, you are recognized for your questions.

Mr. LARSEN OF WASHINGTON. Thank you.

Just to start, Admiral, is it the Biden policy position to develop offshore wind, generally?

Admiral PHILLIPS. Yes, sir, it is.

Mr. LARSEN OF WASHINGTON. Yes. Should we expect someone who is an appointed person in the Biden administration to do anything but support the Biden administration policy? And if you didn't, you would leave? Isn't that usually how it works?

Admiral PHILLIPS. That is an interesting question, sir, but I—

Mr. LARSEN OF WASHINGTON. All my questions are.

Admiral PHILLIPS. Yes, sir. Thank you very much.

[Laughter.]

Mr. LARSEN OF WASHINGTON. Yes, yes.

Admiral PHILLIPS. I look forward to them. Thank you, sir.

Mr. LARSEN OF WASHINGTON. All right, great, sure. And I think everyone should expect to hear a lot of support for offshore wind, as well. And so, I look forward to doing that.

However, this is about your budget, and about FMC's budget, and the debris program. And I do have a complaint about the administration's \$20 million request for the Small Shipyard Grant program. If the administration put the fully authorized amount in the budget, based on your past experience and MARAD's past expe-

rience, would there be \$30 million worth, at least \$30 million worth of awards in the Small Shipyard Grant program?

In other words, is it oversubscribed?

Admiral PHILLIPS. Congressman Larsen, all of our grants are oversubscribed.

Mr. LARSEN OF WASHINGTON. I care about the Small Shipyard Grant program.

Admiral PHILLIPS. It is oversubscribed.

Mr. LARSEN OF WASHINGTON. It is oversubscribed?

Admiral PHILLIPS. Yes.

Mr. LARSEN OF WASHINGTON. Yes. So, the fact that they have put in \$20 million in the budget, and we authorized \$30 million, is telling me that we have an opportunity here in Congress to fix the mistake that the Biden administration made with the budget, in my view. I want to make that point clear to the folks listening in TV-land, because this is a program that helps a lot of small shipyards in my district and my State, and throughout the country. So, I look forward to moving forward on that.

But I want to turn to Chair Maffei about your agency's budget—about the Commission's budget, that is. We are getting a lot of new opportunities and responsibilities with OSRA 2022. How much of that budget is going to be put into implementation of that, versus your basic budget that maybe—you had a backlog in technology investments, or you had a backlog in X, Y, or Z. How is that split up, generally?

Mr. MAFFEI. That is a good question, and I will want to submit a written—

Mr. LARSEN OF WASHINGTON [interposing]. Yes, that would be great.

Mr. MAFFEI [continuing]. Answer to you.

But I will say, just generally speaking, almost all of it goes to professional personnel. And all of our professional personnel are involved in implementing OSRA. There are so many different provisions. You know, we are learning how to walk and chew gum at the same time. We are not putting off anything while we figure out one thing. Everything is being done simultaneously.

There are a couple of things that we do need to address in order to implement OSRA, but also to do other things. For instance, a lot of our IT equipment—and software, frankly—is outdated. We need to freshen our website. We need to freshen a number of those technological intersections and also make sure that we are not vulnerable to any sort of cyber attacks, et cetera. So, there are some.

But by far, most of the budget goes into personnel, mostly economists and lawyers, who know a lot more about the maritime industry than I want to know, but do a great job, and will help us to implement OSRA and also to do our other activities.

Mr. LARSEN OF WASHINGTON. That is great. I just will put a note in for the Marine Debris Program since that is on the agenda. But we have the written statement and, again, I will just underscore how important that is, how important a program that is to the Pacific Northwest, to the Puget Sound, to the Salish Sea, and having a funded Marine Debris Program is important for us there.

And so, I know that other folks have gone over time, and so, I will yield back a full minute in making up my contribution to this committee. Thank you.

Mr. WEBSTER OF FLORIDA. Representative Babin, you are recognized.

Dr. BABIN. Thank you, Mr. Chairman. I want to say thank you to our witnesses. It was good to talk to you, Admiral, on our call yesterday, as well. Thank you both for being here.

The U.S. maritime industry keeps our Nation's economy running, without question. If you doubt that for a minute, just come down to southeast Texas, the Greater Houston region, look in my district alone. We have some great ports there, including the number-one port, by tonnage, in the country, the Port of Houston. The Houston Ship Channel is busy day and night, a conduit for shippers to send and receive goods and services all around the world. Despite that importance, many folks—in fact, I think most of our country—did not understand just how big an impact this movement of goods was.

However, COVID brought new attention to this space, putting shipping issues and supply chain challenges right smack in the limelight. And even as we have heard so much about supply chain issues and the need to improve the status quo, I have heard horror stories about dealing with redtape in the maritime industry. This hurts Texas more than any other State, especially when it deals with energy export projects that are being held up.

So, Rear Admiral Phillips, this question is for you. Piggybacking off what Chairman Webster had alluded earlier, the Deepwater Port Act provides a statutory timeline of about a year for MARAD to process and approve or deny a deepwater port application. I understand that these projects can be complex, but MARAD is taking much longer, more than 3 years to process many of these applications. And since 2015, MARAD has issued only 1 Record of Decision and zero licenses for deepwater ports, despite the filing of 8 deepwater port applications since that time.

I find that extremely disturbing, given the project proponents are spending millions of their dollars to develop these projects, only to have them stalled in your agency. For example, as Chairman Webster brought up, Texas GulfLink is in year 4 of supposedly our 1-year application process, because every time MARAD is supposed to give them an answer, they start asking duplicative questions and pushing the timelines. Even worse, this is costing Texas GulfLink big time. They are paying millions for MARAD to just do their job.

Your response to this issue is just that MARAD is scrupulously following the law. Well, asking the same types of question over and over again because it resets the clock isn't MARAD's statutory responsibility. MARAD needs to be transparent, honest, and straightforward with private-sector partners.

Who at MARAD is ultimately responsible for these applications moving along in a timely fashion, and what steps are they taking to ensure applications are being processed in a transparent, efficient, timely manner, and that applicants are being kept informed of what is going on with their projects? I would like to hear that.

Admiral PHILLIPS. Thank you, Congressman Babin, for that question.

I sign the Records of Decision. That is delegated to me by the Secretary. So, I am the person at MARAD who is responsible for moving these programs along, and I accept that responsibility.

I would point out that the Record of Decision for the Delfin project was approved in 2017.

The project did not move to a license because the company was not ready to do so. We have signed the SPOT ROD, as you know, last fall, and we anticipate moving forward with a license for that later this year.

The GulfLink project is moving forward, as well, and we anticipate we can move to a Record of Decision with them later this year.

As discussed, these are extremely complicated projects. We work very hard, and I will state again: We are transparent, and we do work with the companies on what the requirements are that we need from them to move forward, and that the stop clock actually helps them provide what they need so that this process can continue, and we can reach a legally defensible Record of Decision.

Dr. BABIN. Well, I am not sure they are very appreciative of the stop clock.

And why would you have duplicative questions, asking the same questions over and over again, and then the clock starts all over?

Admiral PHILLIPS. I would—

Dr. BABIN [interrupting]. I don't have examples of the duplicative questioning, but this is something that I have heard from several of these companies.

Admiral PHILLIPS. Yes, sir. I would take that for the record. I don't know of duplicative questions, and we rely on the applicant to respond to us once questions have been asked for them and a specific issue has been provided to them.

Dr. BABIN. OK. How much time do I have left?

VOICE. Five seconds.

Dr. BABIN. Five seconds? Well. Sorry, Mr. Maffei, I am not going to be able to get that in in 5 seconds.

[Laughter.]

Dr. BABIN. I yield back.

Mr. MAFFEI. I appreciate the Congressman not asking the question, and then having the time expire.

Mr. WEBSTER OF FLORIDA. Representative Peltola.

Mrs. PELTOLA. Thank you, Mr. Chairman. Oh, good afternoon.

So, I am very pleased to be on this subcommittee. Coast Guard is critical in Alaska, and so are the maritime trades and maritime transportation. We mostly fly in and out, but most of our cargo comes in by barge. So, thank you for the work that you do.

As the Arctic warms, and as our Bering Sea, Chukchi Sea, Beaufort Sea are ice free, so often we have seen a real dramatic increase in vessels traveling in the Arctic. And this is going to provide a lot of opportunity, but it is also providing challenges to communities and stressors that we haven't seen before. And I was just wondering if the Commission and the Administration could speak to some of the things that you are looking at in this regard. Thank you.

Mr. MAFFEI. Yes, as far as the Commission is, we monitor anything like the trade lanes, if trade lanes are opening up through the Arctic. But we don't have any jurisdiction over that particular area.

Admiral PHILLIPS. Yes, ma'am, Congresswoman, thank you for your question.

We work with the Committee on the Maritime Transportation System, who does look at Arctic issues. We are a member of that. We host them, actually, at MARAD. They have done work in the Arctic, and continue to do work on the matters surrounding Arctic matters, as well as the Coast Guard, who is definitely, as you point out, a critical player in Alaska, and very much involved in safety with regard to maritime operations in the Arctic.

[Pause.]

Mrs. PELTOLA. Maybe I could yield my time to the gentleman from Texas to ask his question.

[Audio malfunction.]

Dr. BABIN. Could you hear me?

Mr. MAFFEI. Yes.

Dr. BABIN. From last year at the same time, and certainly since the height of the COVID-19 pandemic, do you foresee supply chain congestion returning to U.S. ports in 2023, or in the next 5 to 10 years?

I know you don't have a crystal ball, but—

Mr. MAFFEI [interrupting]. Yes.

Dr. BABIN [continuing]. Without further amendments to the Shipping Act?

Mr. MAFFEI. I think that the cargo flows are extraordinarily difficult to predict. I wish I could give you a better answer to this question.

But what I will say is that what we have learned, both with COVID—initially, by the way, a lot of people in the industry thought COVID would mean exactly that, very little shipping, right? And then it was this boom of everybody staying at home, and having nothing to do but shopping and whatever that created this extreme opposite situation. Now we have a situation where things have fallen far faster than anybody in the industry predicted.

So, whether it could return in 2023, I am not sure. I would say that the odds are against it, because of the economy and other things like that. But I would not underestimate the possibility that American consumers could yet decide that all this stuff in warehouses, the extra stuff that you have read has gotten stuck in warehouses, and that sort of thing, they won't want that, they want the latest thing. And so, I think we need to be ready for another boom.

Now, will it be the kind of boom in demand that we saw under COVID? No, I doubt it would be that high. But we need to be ready.

So, for instance, the reason why we need to get the export rule in place, the reason why we need to get the detention and demurrage rules in place are not necessarily for this moment, but they are for the next crisis. We are in the calm after the storm, but also the calm before the storm, in my view.

Dr. BABIN. Thank you. And I appreciate the gentlewoman's yielding.

Am I completely out of time? How much time do I have left? A minute and 30 seconds? I've got one more, then, OK.

[Laughter.]

Dr. BABIN. As FMC Commissioner, you are no doubt familiar with the incentive principle, which essentially states that demurrage and detention practices are reasonable under the Shipping Act only if they incentivize cargo flow. In applying the incentive principle, do you agree that the FMC must avoid actions that would disincentivize the flow of cargo and, for example, by allowing shippers to further delay container retrieval past free time?

Mr. MAFFEI. Yes, the incentive principle—Rebecca Dye came up with after a lot of consultations within the industry, and she was in the middle of a fact finding. And it is difficult, because the particulars do matter here. But yes, the idea is to make sure that detention and demurrage does exist, right?

We were asked, well, why don't you just suspend it, et cetera, when there is so much unfairness going on? And the truth is, if we suspended it, it would all be worse. There would be even more.

Legitimate detention and demurrage is very, very important to keep cargo flowing. But it must follow that incentive principle, meaning that if a shipper can't pick up their cargo, an importer or exporter can't pick up their cargo because the terminal is closed, there is a blizzard, or maybe even they are just closed on the weekend, and they can't pick it up that day, they shouldn't be charged for that particular day. And if they can, then they should be.

So, there is a lot packed in that, and I would like to maybe have a further conversation with you. But yes, I do believe in the incentive principle. It is absolutely essential. And it is what OSRA is all about, is adding the leaves on that tree.

Dr. BABIN. Good. Thank you. And I see that my time is out, so, I yield back.

Mr. WEBSTER OF FLORIDA. OK. So, where were we? Yes, Mr. Ezell.

Mr. EZELL. Ezell.

It looks like we are all having a little trouble with this button today. Thank you, Mr. Chairman, and it is Ezell, one word.

[Laughter.]

Mr. WEBSTER OF FLORIDA. I will never miss it again.

Mr. EZELL. I have been working on that. So, thank you all for this afternoon, and being a part of this committee.

Mr. Maffei, when I am talking to the ports in my district, I hear how port property used for marine terminal operations is pretty limited across the country. And I think this, of course, contributes to port congestion.

Can you expand on the importance of picking up shipping containers in a timely manner?

Mr. MAFFEI. Yes, it is absolutely essential to keep cargo moving.

The presumption of your question is absolutely correct. Most of the ports in this country are near or in urban areas, of course. Right? That is where the business is. And because of that, it is very difficult to get new property, as we saw particularly in the L.A.-

Long Beach area during COVID. So, it is very, very important that people pick up their containers on time, that they drop them off.

One of the things that was upsetting is these reports of large, huge customers like the big box stores or whatever, getting 3 or 4 weeks of free time. There is some evidence of that. Mostly that is not the case. But if you have excessive free time, it does create those bottlenecks. So, all of that is very important.

It is also important to make sure that empties can be picked up. And one of the things that we are being careful about in terms of our “refusal to deal” rule is to make sure that we don’t create the unintended consequence of all these empties being left. So, you are totally onto something.

I will say, though, that it does also exemplify how much the ocean supply chain is dependent on the rest of the supply chain. If we had more warehouse space, if we had better roads, better highways—if you build a bridge in Middle America, it helps me. So, we can’t just look at the ports. But it is a very good point, sir.

Mr. EZELL. Thank you. Recent reports have shown the container volumes at most U.S. ports have fallen, as we have talked about, in the last year, and certainly has lowered since the height of COVID and related consumer spending, which you mentioned in your testimony.

When considering these facts, do you think more amendments to the Shipping Act are needed to prevent supply chain congestion in the U.S. ports? Or should we let markets adjust?

And can we talk about what FMC is doing to provide certainty to exporters during the implementation of the act?

Mr. MAFFEI. I will answer the second part of that question first, certainty to exporters. I mean, we are just trying to make everything we do completely transparent. We are in close touch with a number of the exporter groups, particularly the largest ag groups.

There are some disadvantages to being a five-appointee Commission; there are a lot of advantages. And one of those advantages is all of us, one way or another, have hit the road and gone out and spoken to a lot of these groups in various—and if it is groups meeting in your district, we are happy to come there too, because it is very important. It is a huge industry, it affects everything, but it is actually, in some ways, a very small industry. So, we have been trying to do that as much as we can.

In terms of additional amendments, I mean, I feel a little bit like my daughter does. I have an 8-year-old daughter, and she eats a bowl of Cheerios every night before bed. But I am trying to get her to bed, right? So, she is halfway through the bowl of Cheerios. I am like, well, what else do you want? What other snack do you want? We are still eating the Cheerios in the first act. It doesn’t mean that we might not need something further. There is a lot of stuff. There are certain court decisions that might come down, there are certain other kinds of things. But it does make it such that I think my biggest focus is to implement what you have already passed, sir.

Mr. EZELL. Very good. So, it is fair to say that you agree the FMC must avoid actions that would disincentivize the flow of cargo?

Mr. MAFFEI. Absolutely. That’s the trick, right?

Mr. EZELL. Yes.

Mr. MAFFEI. Figuring out what those actions are.

Mr. EZELL. Well, I will tell you, in Mississippi and the Port of Gulfport, we have real good roads that go right to I-10. So, if the Port of Houston gets too backed up, we have got plenty of room over there.

Mr. MAFFEI. I was at the Port of Gulfport just before——

Mr. EZELL [interposing]. Yes.

Mr. MAFFEI [continuing]. The pandemic, and you are quite right.

Our gulf ports, by the way, a lot more traffic is coming to them. There is speculation, oh, it is the labor issues on the west coast. I think that may be a small part of it. But a lot of that traffic is going to stay because of improvements that the gulf ports have made, improvements in the Panama Canal, and, frankly, the change in where the cargo is coming from, more cargo coming from Southeast Asia and India.

Mr. EZELL. Thank you.

Mr. Chairman, I yield back. Thank you.

Mr. WEBSTER OF FLORIDA. Thank you. OK, Representative Scholten.

Ms. SCHOLTEN. Thank you so much. Thank you, Chairman Webster. Thank you, Rear Admiral Phillips. And thank you, Mr. Maffei, for your incredible testimony today and answering our questions.

This question is for Rear Admiral Phillips. If we can turn back to EMBARC briefly for a moment—and I want to thank you for your extensive testimony on this already, and answering all of our questions. But there is a specific portion that I wanted to ask about.

EMBARC included both near- and long-term requirements on shipping companies. And we have some information about some of the near-term requirements, the short-term requirements. But how are those companies complying with some of the longer term requirements like video surveillance and master key controls and the like?

Admiral PHILLIPS. Congresswoman Scholten, thank you for that question. As you have pointed out, there are things that it will take companies some time to move forward with. The specific items that you mentioned, key control cameras and other security matters, are now also in the Coast Guard Authorization Act from 2023. And Coast Guard will be developing processes for them, and there is a timeframe under which those actions must be implemented so that companies do have some time to implement these. They were a part of EMBARC, and we are seeing companies take action on their own now, which I find heartening.

I should also note that we have a rulemaking required under the NDAA for EMBARC, which we are proceeding with expeditiously. That will not impact things under the Coast Guard Act, but it will help us put our processes in place for EMBARC more thoroughly, so that companies can follow those as we move forward, in particular with regard to any actions we might take to withhold payments should companies not be in compliance.

Ms. SCHOLTEN. Just as a followup, in terms of the time requirements for complying, do you think they are sufficient to give the

companies enough time to fully comply, but also timely enough to ensure that they are taking appropriate and prompt action?

Admiral PHILLIPS. Thank you, ma'am. I think they are appropriate to the circumstances. And again, we are seeing companies move out in advance of that. So, with optimism, they won't need the full amount of time to move forward.

And we thank them, I would say, for their actions in response to this.

Ms. SCHOLTEN. That is wonderful. That is heartening to hear. Thank you so much.

I yield back the remainder of my time.

Mr. WEBSTER OF FLORIDA. Representative Johnson, you are recognized for 5 minutes.

Mr. JOHNSON OF SOUTH DAKOTA. Thank you very much, Mr. Chairman, and it has been gratifying to hear so many good words said about the Ocean Shipping Reform Act.

And one of the surprising things that happens to all of us when we get to Congress is that we realize that there are actually good Members here, that not everybody is sort of a cartoonish villain. And I discovered one such good person in John Garamendi, who has just been an incredible partner.

The House works a lot harder than the Senate, and nobody doubts that, of course. But we passed the Ocean Shipping Reform Act out not once, not twice, not three times, but four times. And as John mentioned, we don't think we are quite done yet.

And I appreciate that Chairman Maffei—by the way, I have heard five different pronunciations of your last name today.

Mr. MAFFEI. When I was in this body, the Congress, I used to say it rhymes with buffet.

Mr. JOHNSON OF SOUTH DAKOTA. Yes. Well, that is actually helpful.

Mr. MAFFEI. Everything for \$9.95.

[Laughter.]

Mr. JOHNSON OF SOUTH DAKOTA. And I understand that you are, as you are saying, busy eating Cheerios. But Mr. Garamendi and I think you could probably use another bowl on deck for when you get done eating the first bowl. And so, next week, we will be introducing the Ocean Shipping Reform Act 2.0, I think, as John mentioned, to undo some of the damage the Senate did with their revisions. And I think we will do a better job of hitting the center of the target.

But getting to OSRA 1.0, Mr. Chairman, one of the things we did is provide you the power to promulgate rules around this refusal to deal. You have talked a bit about that. And I know we had 120 Members of Congress weigh in, and then you had an additional notice of proposed rulemaking, and solicited comments.

Do we have a timeline? Do we have a sense of when you are going to be done?

Mr. MAFFEI. Yes. Because of so many valuable comments when we did the first notice of proposed rulemaking, we are making significant enough changes that we want to do a supplemental. It just wouldn't be right to just go to final rule without having a comment period so the public could comment on what we are coming up with.

I expect that supplemental to be out very soon—let's see, I am trying to think. I don't want to promise next week, but I will say in the next month. We are working very hard on that.

Mr. JOHNSON OF SOUTH DAKOTA. So, I heard next week, just—everybody heard next week.

[Laughter.]

Mr. MAFFEI. So, yes, we are working on that. It is very important.

I will say this. The good thing about the current environment is that we aren't experiencing these problems to the same degree that we were in the midst of COVID. So, when you wrote, "Do this really, really fast," every hour, practically, was of the essence. It is less that now. And it is so important that we do get it right, because, as many of your colleagues have pointed out, there could be unintended consequences on these very exporters that we are trying to help if we don't get this right.

Mr. JOHNSON OF SOUTH DAKOTA. Well, and I would note that I have had a number of these foreign-flagged ocean carriers admit to me in my office that, because they know the cop on the beat has new tools available at their disposal—maybe not perfectly well defined yet, but getting close—they have, of course, changed the way they do business, and that is to the benefit of American exporters, for sure.

So, I want to shift to the vessel operating—the common carrier audit system that you all have. And for those of you who don't know, this collects detention and demurrage billing information for the nine large foreign-flagged ocean carriers.

And you had mentioned in your testimony, sir, that this is really valuable information. Clearly, I know that you are not going to have company-specific audit findings released to Congress. There would be all kinds of business information, why that might not be appropriate. But do you think summaries of your findings could be beneficial for lawmakers?

Mr. MAFFEI. I think potentially.

First of all, we are happy, of course, to give any lawmaker a detailed briefing on various things. There are some requirements of OSRA, for instance, that we haven't implemented yet. We haven't gotten to that deadline yet. But in terms of reporting overall import and export volumes, that we certainly will do.

There are probably other areas that could be useful, both to Congress and the public, and I am happy to look into that. I think these audits, which actually, I established when I became Chairman because it was so important that we—I mean, these are foreign carriers, but we do want to communicate to them what the best practices are. We want to give them some opportunity to follow our detention and demurrage rules, to make sure they have measures in place to avoid unfair retaliation against an exporter or importer who maybe brings a case against them, to make sure that they do have a vibrant export program. So, that is what it is for.

But yes, I am happy to get together with you—

Mr. JOHNSON OF SOUTH DAKOTA [interrupting]. Mr. Chairman, I am out of time. I will close by noting that the bowl of Cheerios Congress gave your team to devour was enormous. And I want to

thank every single employee of the Federal Maritime Commission for the incredible work you all are doing.

Mr. MAFFEI. That is very kind of you, Congressman, particularly because, as you know so well, it is really the staff that the biggest burden lands on. So, thank you for thanking them.

Mr. JOHNSON OF SOUTH DAKOTA. I yield back.

Mr. WEBSTER OF FLORIDA. Representative Auchincloss.

Mr. AUCHINCLOSS. Thank you, Chairman.

Rear Admiral, I appreciate you being here again with us. I would like to ask you about offshore wind. Over 25 different types of vessels will be needed to build each offshore wind farm. To help build these vessels, on June 21, 2022, MARAD designated offshore wind vessels under the Federal Ship Financing Program, also known as title XI, as vessels of national interest. Since that designation, has MARAD seen an increase in title XI applications? And do you know how many more than previously?

Admiral PHILLIPS. We have seen an increase in title XI applications. We have seven applications pending now, we anticipate more, and five of those seven are for offshore wind vessels.

Mr. AUCHINCLOSS. Do you know what kind of vessels?

Admiral PHILLIPS. All kinds. Small to large.

Mr. AUCHINCLOSS. Yes.

Admiral PHILLIPS. Everything, including Rock Fall vessels and other things.

Mr. AUCHINCLOSS. Do you agree that we need further investment in U.S. offshore wind vessels to meet President Biden's goal of deploying 30 gigawatts of offshore wind by 2030?

And would you be willing to work with my office on that effort?

Admiral PHILLIPS. Thank you for that question, sir. We certainly agree that we would absolutely be willing to work with your office, and additional investment is always welcome in the maritime industry to grow the industry and grow jobs, and certainly jobs in the maritime workforce.

Mr. AUCHINCLOSS. Yes, and I will note that the title XI program has not received appropriations since fiscal year 2018, and has only been funded by Congress twice in the last decade. I believe it should receive increased appropriations to help build the hundreds of vessels needed for the new American offshore wind industry.

And I will move on, but continue questioning you, Rear Admiral, about the mariner shortage. When you testified before the committee on September 14, 2022, you stated that vessel operators report that mariner availability is still a challenging issue, and that you were hosting a summit on September 23rd to discuss recruitment and retention challenges for mariners.

As you know, one of the issues impeding mariner retention is the antiquated merchant mariner credentialing system. Section 11511 of the fiscal year 2023 NDAA requested a report by the USCG Commandant, in consultation with the Maritime Administration, on modernizing the merchant mariner credentialing system. It was due 2 years after the passage of that law. How is MARAD helping modernize the merchant mariner credentialing process, and have you started to work on this study?

Admiral PHILLIPS. So, thank you for that question, sir. The credentialing system belongs entirely to the Coast Guard. We work

closely with them on this particular matter. And the challenge for them, of course, is the system was built to manage credentials and not to be searchable.

So, what would be helpful to us, and for the Coast Guard, as well, is a database where we could search to understand how many qualified mariners we have, and what qualifications they actually hold. It is not possible to ascertain that querying their database right now. Much of it is on paper.

Mr. AUCHINCLOSS. Well, this is why we asked the USCG to consult with you, as they were doing. Have they been consultative?

Admiral PHILLIPS. We are working with them on this issue. It is a very common topic of discussion with the Coast Guard.

And I would add that they are working very hard to solve this issue and come to a resolution.

Mr. AUCHINCLOSS. So, you have confidence that they will be able to issue this report on time?

Admiral PHILLIPS. Congressman Auchincloss, I can't speak to the report. I know that they understand the need.

Mr. AUCHINCLOSS. I will actually yield back the rest of my time, Chairman.

Mr. WEBSTER OF FLORIDA. Thank you very much. So, we have maybe another round here with Representative Garamendi.

You don't want it? OK. Are there any—well, everybody has left. [Laughter.]

Mr. WEBSTER OF FLORIDA. Nobody can ask questions, so, that is it.

Seeing none, that concludes our hearing today, and I would like to thank the witnesses for their testimony. It is really appreciated. Thanks for listening.

I ask unanimous consent for the record of today's hearing to remain open until such time as witnesses have time to provide answers to questions that may be submitted to them in writing.

Without objection, so ordered.

I also wanted to ask unanimous consent that the record remain open for 15 days for any additional comments or information submitted by the Members or witnesses to be included in today's hearing.

Without objection, so ordered.

The subcommittee stands adjourned.

[Whereupon, at 3:59 p.m., the subcommittee was adjourned.]

APPENDIX

QUESTION FROM HON. DANIEL WEBSTER TO ANN C. PHILLIPS, REAR ADMIRAL, U.S. NAVY (RET.), AND ADMINISTRATOR, MARITIME ADMINISTRATION

Question 1. The Port Infrastructure Development Program (PIDP) includes a specific legislative requirement prohibiting award recipients from using funding received through the program for the procurement of fully automated cargo handling equipment if the Secretary of Transportation determines that such equipment would result in a net loss of jobs within a port or port terminal. While the United States Marine Highway Program (USMHP) has no such legislative requirement, the Maritime Administration has decided to apply this PIDP requirement to USMHP funding opportunities.

Please provide the rationale for why your Agency included this limitation on award uses in USMHP when there is no legislative requirement to do so.

ANSWER. The USMHP promotes the use, efficiency, and public benefits of our marine highway services, including the creation and sustainment of jobs in U.S. vessels, ports, and shipyards. MARAD supports the Biden Administration policies which maintain good-paying jobs across the United States maritime workforce, including port workers, who are an essential part of the supply chain.

QUESTIONS FROM HON. MIKE EZELL TO ANN C. PHILLIPS, REAR ADMIRAL, U.S. NAVY (RET.), AND ADMINISTRATOR, MARITIME ADMINISTRATION

Support for Expansion of Capital Construction Fund Eligibility

Question 1. As you know, last year in Section 3544 of the National Defense Authorization Act for Fiscal Year 2023, Congress enacted important amendments to the Capital Construction Fund authority to expand eligibility to all U.S. built vessels which are engaged in the domestic or foreign commerce of the United States. This expansion did away with limitations on the availability of the CCF program to certain geographic trades that had been in effect for decades. It also opened substantial new opportunities for vessel owners, carriers, and shipbuilders to amass the private capital necessary to address the needs of the U.S. maritime industry.

Looking at the pent up demand and unmet needs for upgrading and modernizing infrastructure at our ports and marine terminals, expanding eligibility of Capital Construction Funds to apply to zero or near-zero emission cargo handling equipment, micro-grid and transmissions technologies, and other expensive unmet needs could attract and provide substantial private sector capital and multiply the reach and effectiveness of federal grants awarded through MARAD's Port Infrastructure Development Program, Small Shipyards Grant Program and United State Marine Highway Program.

Question 1.a. Would the Biden administration look favorably on this type of eligibility expansion for the use of CCFs? Is this idea something the administration is considering?

ANSWER. An expansion of CCF eligibility would not be of use for publicly owned ports, which do not pay Federal taxes, and the availability of U.S.-built zero or near-zero emission cargo handling equipment that could be acquired with CCF funds is limited. Therefore, MARAD is not currently considering such an expansion.

Question 1.b. Do you agree with the premise that opening up CCFs to be used for cargo handling equipment would have a multiplier effect on the value of the federal investments being made under the Bipartisan Infrastructure Law and Inflation Reduction Act?

ANSWER. For many decades acquisition of cargo handling equipment that is used primarily on a vessel has been an eligible use of CCF funds. MARAD has not studied whether there would be a multiplier effect on the value of the federal investments being made under the Bipartisan Infrastructure Law and Inflation Reduction Act.

QUESTIONS FROM HON. AARON BEAN TO ANN C. PHILLIPS, REAR ADMIRAL, U.S. NAVY (RET.), AND ADMINISTRATOR, MARITIME ADMINISTRATION

Question 1. Considering the global pandemic, supply chain disruptions, historic inflation, and overall costs increases in material pricing from steel to the hiring and retaining a skilled workforce, it appears the Vessel Construction Manager (VCM) contracting model implemented commercial best practices that helped to reduce risk for the construction and delivery of the first, and follow-on, National Security Multi-Mission Vessels (NSMV). This appears to be a tremendous success for MARAD in managing the VCM. I welcome your thoughts on the success of this ship acquisition program and if MARAD could implement such a contracting structure for other programs such as the recapitalization of the Ready Reserve Fleet or other auxiliary logistic ships?

ANSWER. It is only recently that the sealift and auxiliary type vessels were completely integrated into the Department of the Navy's Long Term Shipbuilding Plan (the 30-year shipbuilding plan). Using a VCM approach to construct new ships aligns with both MARAD and the Navy's strategic objectives, to have sufficient ship construction and repair in the nation for any conflict.

Because these are non-combatant vessels and are frequently crewed by civilian merchant mariners—both Federal employees and government contractors—commercial standard construction is an ideal way to build, operate, and maintain ships with robust marine inspection and classification society oversight. In fact, the Navy's survivability instruction specifically states that these vessels are constructed to commercial marine design standards.

For specific Department of Defense (DoD) stakeholder concerns about survivability, reliability, and military utility, there is a long history of including National Defense Features (NDF), resourced through the National Defense Sealift Fund (NDSF), and other ways, included as integral capabilities installed during ship construction. This could include redundant power systems, speed advantage, and communications equipment, or more modern constructs such as environmental compliance measures, underwater ambient noise attenuation measures, and resilient positioning, navigation, and timing arrangements, as well as enhanced cybersecurity.

The VCM approach worked well because it considered stakeholder requirements in-depth, achieved consensus on the vessel's required capabilities, and the planned effort could meet the necessary schedule within a reasonable program cost model. This approach leveraged commercial ship operator's expertise to help select a shipyard and lock-in the firm fixed price for each ship.

Question 2. Recent studies have suggested that the U.S. will need a tanker security fleet of 100 tankers and cable lay vessels for the Navy in a contingency. Considering the affordable nature of MARAD managing a VCM contract structure that implements commercial best practices and firm-fixed-price contracts, wouldn't these shipbuilding programs be a strong fit for this type of acquisition program?

ANSWER. MARAD works with the U.S. Transportation Command (USTRANSCOM) which has the responsibility for global bulk fuel management for the DoD. MARAD is aware of the studies which project a need for a large number of tank vessels to meet DoD's requirements. MARAD will continue to support USTRANSCOM's efforts to find reasonable contingency planning solutions. MARAD is not aware of the Navy's specific requirements for cable laying vessels. If the DoD has requirements to build vessels to meet their requirements, MARAD can certainly share its acquisition approach of using a commercial vessel construction manager as an effective approach with the Navy.

Question 3. The fiscal year 2023 National Defense Authorization Act (NDAA) authorized MARAD to utilize a similar contracting structure to support the acquisition of ten ships for the National Defense Reserve Fleet (NDRF). How do you envision the Administration may utilize the VCM contracting structure in the future to support such acquisitions?

ANSWER. The VCM contract to construct a new ship type was always limited in scope to the necessary vessels to replace the aging fleet of training ships. MARAD supported our stakeholders and worked closely with those stakeholders on a com-

mon design, desired capabilities, and reasonable considerations to keep the ship type affordable. The most critical consideration was the ability of the ship production line to achieve the planned schedule.

The use of a VCM in this context would enable the Department and MARAD to recapitalize about one-fifth of the expected Ready Reserve Force (RRF) fleet, with newer, more sustainable platforms. With continued transfer of aging ships from Department of the Navy, the RRF component of the NDRF will number around 50 vessels by the end of FY25.

Structuring the VCM contract requires that we consider our strategic interests in shipbuilding capability. For any protracted conflict with a peer competitor, shipbuilding capacity is essential to replacement of ships that are lost to combat, wear out from material failures due to the greater frequency of use for sealift missions, or require renewal for new technology integration.

Shipbuilding programs work best when the industrial base can anticipate and plan for shipbuilding lines that avoid the boom-and-bust cycles or winner-takes-all awards. Any VCM contract would benefit from an indefinite delivery/indefinite quantity (IDIQ), and multiple award construct, meaning more than one shipyard could be awarded a contract, with options for more vessels. During World War II, the United States had dozens more shipyards which reduced ship production times dramatically. The VCM approach enables the VCM to work with domestic shipbuilders and develop proposals for consideration by MARAD.

At the same time, we must invest in and re-establish support mechanisms that create more opportunity for ship construction employers, skilled laborers, apprenticeship programs, and ways that operating companies can afford to construct their vessels in the United States. Like the Navy's Shipyard Infrastructure Optimization Program (SIOP), we need the ability to modernize our shipbuilding infrastructure, without relying solely on an accompanying ship construction line to fund that cost.

QUESTIONS FROM HON. CHRIS PAPPAS TO ANN C. PHILLIPS, REAR ADMIRAL, U.S. NAVY (RET.), AND ADMINISTRATOR, MARITIME ADMINISTRATION

Real-time Emissions Monitoring and Decarbonization Efforts

Question 1. MARAD's Fiscal Year 2024 budget request includes \$6.5 million to support decarbonization and energy efficiency efforts through the Maritime Environmental and Technical Assistance (META) Program. While the request highlights several META projects that the agency is hoping to focus on, there is no mention of real-time emissions monitoring technology as a potential solution to decarbonize the maritime industry.

Real-time emissions monitoring produces actionable data that can be used to pinpoint the exact return on investment and environmental impact of operations. The current industry standard of using calculated estimates is neither accurate nor timely.

How can MARAD support further exploration of the benefits of using real-time emissions monitoring through META projects?

ANSWER. We agree that real-time emissions monitoring is helpful to identify areas for vessel and port operation emissions improvement.

The META program has supported in-situ emissions testing aboard vessels in the past to verify modeled data for various fuels and technology applications and continues to do so for current and future demonstration projects.

META is also engaged in discussion with private sector companies that offer real-time emissions monitoring software/hardware solutions to industry; however, MARAD does not promote one company over another. In addition, a select number of large ports regularly monitor emissions and have maintained emissions inventories over the years.

Finally, the META program has supported multimodal emissions modeling tools in the past and is currently working on a greenhouse gas emissions calculator for vessels that will help the industry baseline emissions for their operations so they may better understand how to improve overall fleet performance.

Cable Ship Security Fleet Program and Undersea Communication Cables

Question 2. In the Fiscal Year 2018 National Defense Authorization Act, Congress took a bold step in creating a new program under the DOT's Maritime Administration (MARAD) called the Cable Ship Security Fleet ("CSSF") program. This program is a vital component of the United States' national security infrastructure and is responsible for maintaining the security and integrity of undersea communication ca-

bles that are critical for U.S. interests in global communication, economic stability, and national defense. These cables transmit over 99% of international data on a 24/7/365 basis, including financial transactions that the Federal Reserve estimate at \$10 trillion per day, government communications, and military intelligence. A disruption to these cables would have significant implications, from economic instability to military vulnerability. The CSF program plays a critical role in preventing and restoring such disruptions by ensuring the security and integrity of these cables.

The contractor of this program that installs undersea cables connecting the world, which is based in my district in Newington, New Hampshire. They operate American flagged ships with American sailors and mariners around the world that, when called upon should there be a declaration of war or state of emergency, would immediately be directed by the Department of Defense to guard, repair, and replace damaged undersea cables anywhere in the world.

In 2017, when Congress authorized this program, it modeled the program after other successful programs, such as MARAD's Maritime Security Program (MSP). Congress authorized the CSF program at \$5 million per year per vessel. Because the number of U.S. mariners and other personnel needed to run a cable ship, which is actually a construction vessel, is three times the number of personnel to run a typical transport ship—as well as due to inflationary factors, actuaries have analyzed that the stipend for each vessel per year should be increased from \$5 million to \$12 million. These numbers have been reviewed and concurred by MARAD and the U.S. Navy's Military Sealift Command.

While we understand that MARAD cannot advocate for funding that was not in the President's Budget request, due to these concerns, as well as the imperative that the CSF program operators bring to U.S. national and economic security, it is essential that the CSF program's stipend is increased.

Though the program is vital to our national security and China should be nowhere near our undersea communication cables, the CSF program is overseen by MARAD, and your leadership in supporting our country's submarine cables is essential for our economic and national security interests. If Congress were to provide an increase in funding, can you confirm your support to increasing the cost of \$12M per year per vessel of the Cable Ship Security Fleet program?

ANSWER. The President's FY24 Budget request does not include funding for the Cable Ship Security Fleet Program as, unlike similar US-flag ship stipend programs included in the President's Budget, it does not meet a DoD need. However, MARAD will implement any changes in the program in accordance with the law.

QUESTIONS FROM HON. MIKE EZELL TO RICHARD W. SPINRAD, PH.D., UNDER SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE, AND ADMINISTRATOR, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Status of Right Whale Rulemaking and Vessel Speed Restrictions

Question 1. NOAA's National Marine Fisheries Service (NMFS) manages commercial fisheries and protects threatened and endangered marine mammal populations, none more so than the North Atlantic right whale population. Despite NMFS's development and initiation of a take reduction plan in 1999 and modified subsequently by NMFS, population survey data from 2020 and 2021 suggests the right whale population has continued to decline and may now total fewer than 350 individuals.

NMFS initiated a rulemaking process in 2021 to revise its Atlantic Large Whale Take Reduction Plan and regulations to mitigate mortality associated with commercial fisheries to stem this ongoing decline. Furthermore, NMFS proposed changes to its North Atlantic right whale vessel speed regulations to broaden the spatial boundaries and timing of seasonal management areas along the U.S. East Coast, and to expand mandatory speed restrictions of 10 knots or less to include most vessels 35–65 feet in length. Not surprising, these proposed actions drew intense opposition from the commercial fishing industry, recreational boaters, commercial carriers, vessel pilots, and port and marine terminal operators, especially because of negative impacts to navigation safety.

Question 1.a. What is the status of NMFS's rulemaking to revise its regulations to reduce accidental and incidental mortality in the North Atlantic Right Whale population? Does NMFS have a new timeline for publishing a final rule?

ANSWER. NOAA Fisheries anticipates taking final action on the proposed vessel speed rule in 2023.

Question 1.b. NMFS denied in January of this year a petition filed by several ocean conservation groups seeking NMFS to utilize its emergency authority to impose the new vessel speed restrictions. Is NMFS reevaluating the entire proposed rule or limited parts of it?

ANSWER. NOAA Fisheries received approximately 90,000 comments on the proposed action. The agency is in the process of reviewing the public input received.

Question 1.c. Congress enacted a couple of provisions regarding North Atlantic Right Whale in Division JJ of the Consolidated Appropriations Act, 2023 (Pub.L. 117–328), and additional provisions were enacted in the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Pub.L. 117–263). What is the status of NMFS implementation of these new statutory directives? What are the spillover effects on NMFS ongoing right whale rulemaking?

ANSWER. Division JJ, Title II, Section 201 of the Consolidated Appropriations Act of 2023 authorized appropriations to NMFS of up to \$50M (and no less than \$40M for innovative fishing gear) in grants for projects “designed to reduce the lethal and sub-lethal effects of human activities on North Atlantic right whales.” Under Division N of the bill, \$20M was appropriated as ‘no-year’ supplemental funding, and this \$20M can only be used to support the adoption of innovative fishing gear deployment and fishing techniques to reduce entanglement risk. As allowed by the Consolidated Appropriations Act of 2023, we have announced a cooperative agreement with the National Fish and Wildlife Foundation (NFWF) to implement the grant program and hope to move these efforts along quickly.

Title CXIII of the National Defense Authorization Act of 2023 (NDAA) directed NOAA to develop a new Vessel Strike Reduction Grant Program and authorized up to \$10M annually from 2023–2028. No new funding was appropriated for this new authority. To comply with the requirement to develop the grant program, NOAA is planning to develop an Assistance Listing Number (ALN), while making it clear that it does not have any funds available at this time.

Title CXIII of the NDAA also requires NOAA to design and deploy a near real-time monitoring and mitigation program for threatened or endangered large cetaceans (Mysticeti, Physeter, or Orcinus). The bill calls for a pilot program for North Atlantic right whales to be deployed within 3 years, and a plan for a full program must be developed within 6 years. The bill authorized appropriations of up to \$5M annually on this program from 2023–2027, but no funds were appropriated. NMFS already conducts near-real time monitoring of many marine mammal stocks, including North Atlantic right whales, as outlined in the pilot study. To comply with this requirement, NMFS will collate existing near-real time monitoring efforts for North Atlantic right whales to form a cohesive pilot program.

These new statutory requirements have not affected NMFS’ ongoing North Atlantic right whale vessel strike reduction rulemaking. However, The Consolidated Appropriations Act of 2023 found that the implementation of the 2021 Atlantic Large Whale Take Reduction Plan rule was sufficient under the Endangered Species Act and Marine Mammal Protection Act to authorize the lobster and Jonah crab fisheries until 2028. NMFS will continue the next round of Plan modifications prior to 2028 for fisheries other than lobster and Jonah crab.