

April 14, 2020

The Honorable Peter DeFazio, Chairman
Committee on Transportation and Infrastructure
United States House of Representatives
Washington, DC 20515

The Honorable Adam Smith, Chairman
Committee on Armed Services
United States House of Representatives
Washington, DC 20515

The Honorable Sam Graves, Ranking
Committee on Transportation and Infrastructure
United States House of Representatives
Washington, DC 20515

The Honorable Mac Thornberry, Ranking
Committee on Armed Services
United States House of Representatives
Washington, DC 20515

Dear Chairmen DeFazio and Smith and Ranking Members Graves and Thornberry:

On behalf of the undersigned labor organizations representing licensed and unlicensed American merchant mariners, we ask Congress to address a number of important issues affecting American maritime workers, their employers and the future of the U.S.-flag maritime industry in the next coronavirus stimulus package and other appropriate legislation.

In the face of the health crisis facing our country, American merchant mariners are once again putting themselves in harm's way in service to our nation. They are working aboard vessels in the domestic and foreign trades to help ensure that American consumers and businesses receive the products and commodities they require, and to provide the domestic waterborne transportation that other essential workers rely upon to bring them to and from their places of employment.

COVID-19 is putting extraordinary pressures on the U.S.-flag shipping industry, its mariners and shoreside employees. Responding to this situation requires immediate action. We stand ready to do whatever we can to meet this challenge and ask Congress to work with us to protect the lives and livelihood of American mariners and to ensure the long-term viability of the domestic and international U.S.-flag shipping industry.

First, our nation needs a strong, viable militarily useful U.S.-flag merchant marine and its merchant mariners to meet national security requirements. COVID-19 has not diminished this need and our industry will remain a critical component of America's commercial sealift readiness in the future. However, as commercial oceangoing trade continues to decline, and as the virus threatens to force the quarantine of American crews, the U.S.-flag shipping companies operating militarily useful commercial U.S.-flag vessels in the Maritime Security Program (MSP) face the protracted lay-up of their ships.

To this end, we urge Congress to enable vessels enrolled in the MSP to receive the statutory authorized annual stipend without interruption by suspending the requirement that vessels must operate for a minimum 320 days in the year. This requirement should be suspended if an MSP vessel is laid-up or idle due to loss of cargo or other circumstances, but while the crew remains employed, including but not limited to situations during which the crew are ashore in quarantine or personnel are sequestered prior to joining or upon leaving their vessels, but in all cases it would be necessary for the crew to remain in employment, ready and available to operate a vessel as

needed. We also ask Congress to couple the existing MSP stipend with an additional emergency supplemental payment to cover the normal and unexpected costs to the vessel operators during the time they are unable to carry cargo and generate revenue while they maintain the laid-up vessel in a state of readiness and continue to employ the crew. Significantly, this waiver of the operating days requirement and the additional emergency payment will act to keep the MSP fleet and crews ready and available to immediately respond to any national emergency requiring the utilization of our commercial sealift readiness capability.

Equally important, we urge that the Cargo Preference Act of 1954 and Public Resolution 17 be amended so that 100 percent of all government-generated cargoes shipped by Federal agencies and departments are reserved for U.S.-flag commercial vessels. This will help to ensure the continued operation of vessels under the U.S.-flag and the continued employment of American merchant mariners as commercial cargoes continue their decline. This increase in the share of government generated cargo carried by U.S.-flag vessels would be subject to the availability of U.S.-flag vessels at fair and reasonable rates as required by existing law.

Secondly, we appreciate the announcement by the Department of Homeland Security designating American mariners as essential workers. However, as essential workers it is extremely important that they have the resources necessary for them to safely do their job. We strongly urge that COVID-19 testing kits be available aboard U.S.-flag vessels, and that the crew also have access to the personal protective equipment deemed necessary to protect against the disease.

We also appreciate the steps taken by the United States Coast Guard to extend expiring mariner certifications, endorsements, documents and licenses so they can continue to work without interruption. While these actions are essential, we urge that similar steps be taken to extend expiring Transportation Worker Identification Credential (TWIC) cards so that mariners can continue to have access to port facilities and vessels and can continue to do their jobs.

In addition, our essential maritime workforce oftentimes travels from one state to another to reach their vessel. If they do not arrive as scheduled, the vessel will depart, the mariner will lose income and likely his health coverage since he is not working. It is imperative that mariners must be specifically exempt from individual state requirements that affect domestic travel and require periods of quarantine. We urge Congress to enact a clear Federal preemption in this area so that mariners can perform the essential service they are trained and willing to do.

Finally, we strongly oppose the civil service mariner (CIVMAR)-only liberty restriction imposed by the Military Sealift Command (MSC). We believe that these civilian mariners should not be treated differently when compared to all other workers aboard MSC CIVMAR manned ships. Military personnel, MSC shoreside personnel, and shipyard workers are allowed to transit to/from ship. If the restriction was genuinely intended to safeguard against the virus, every worker aboard ship would be restricted, not just CIVMARS. We urge Congress to take the necessary steps to end this discrimination against CIVMARS.

Thirdly, public and private ferry operations have drastically reduced service as the number of commuters has declined, in many instances by upwards of 80% - 90%. The recently enacted CARES Act increased the funding for the Federal Transit Administration's grant programs,

including its section 5307 or Urbanized Area Formula Grant program which supports public entities engaged in providing a public transportation passenger ferry service in urbanized areas. As we look forward to the time when individuals throughout our country return to work, domestic ferry operations and their workforce must be available to respond to the needs of people in their communities. We urge Congress to review the programs available to support ferry operations and to ensure that funding is sufficient and available to address operating costs and expenses.

Fourth, COVID-19 has had a negative impact on the maritime unions' nonprofit vocational training facilities. Section 1102 of the CARES Act (paycheck protection program) makes nonprofit organizations eligible to apply for assistance under this program. However, the definition of an eligible nonprofit under section 1102 is limited to only 501(c)(3) nonprofit organizations under the Internal Revenue Service code. This limitation has the effect of precluding a nonprofit 501(c)(9) organization that operates a maritime vocational training facility from applying. A 501(c)(9) Voluntary Employee Beneficiary Association Trusteeship is a structure utilized by unions, including maritime unions, that have multiemployer pension plans. We urge that the definition of "nonprofit organization" contained in section 1102(a)(2)(A)(vii) of the CARES Act be amended to include a 501(c)(9) so that all maritime union vocational training facilities will be eligible to apply for the assistance needed to support their employees and to be available to resume the essential training and upgrading necessary to provide our industry with the best trained mariners in the world

Finally, we strongly urge Congress to reject all attempts by foreign shipping interests who are attempting to capitalize on the COVID-19 crisis by seeking a waiver of our nation's cabotage laws, commonly referred to as the Jones Act. We understand that various interests in the cargo, passenger and dredging industries, for example, are seeking legislation that would allow the operation of non-Jones Act qualified vessels in the domestic trades. If granted, such waivers would, at a minimum, jeopardize the long term viability of individual segments of the maritime industry as well as the industry as a whole, putting at risk the companies and American maritime jobs needed to protect and enhance the economic, military and homeland security of the United States.

In closing, we thank Congress for its support of the U.S.-flag maritime industry and the American merchant mariners who have, since the founding of our nation, served our country with pride and distinction. Whether it be during a war or during a crisis like COVID-19, American merchant mariners do not think about the risks and the dangers to themselves. Rather, they think about what they can do to support their fellow citizens and their country – and they act with the highest degree of professionalism and patriotism, as they are doing today. They are a resource our country cannot afford to lose. We ask that you support the actions necessary to keep U.S.-flag vessels of all types operating and to keep licensed and unlicensed American merchant mariners available to serve our nation now and in the future.

Thank you for your consideration of our views. We stand ready to discuss these issues with you and your staff and look forward to working with you and your colleagues to help protect the lives and livelihoods of America's maritime workforce, and the long-term viability of the U.S.-flag merchant marine.

Marshall Ainley, President, Marine Engineers' Beneficial Association
Dave Connolly, President, Sailors' Union of the Pacific
Paul Doell, President, American Maritime Officers
Dan Duncan, Secretary-Treasurer, AFL-CIO Maritime Trades Department
Don Marcus, President, International Organization of Masters, Mates & Pilots
Anthony Poplawski, President/Secretary Treasurer, Marine Firemen's Union
Michael Sacco, President, Seafarers International Union
Larry Willis, President, Transportation Trades Department, AFL-CIO

cc: The Hon. Sean Patrick Maloney, Chairman, Coast Guard and Maritime Transportation
The Hon. Joe Courtney, Chairman, Seapower and Projection Forces
The Hon. Bob Gibbs, Ranking, Coast Guard and Maritime Transportation
The Hon. Rob Wittman, Ranking, Seapower and Projection Forces