

# MARITIME CABOTAGE



January 21, 2010

## Board of Directors

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The American Waterways Operators

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**Eric Smith**  
Overseas Shipholding Group

**Jim Weakley**  
Lake Carriers' Association

The Honorable John D. Rockefeller  
Chairman  
Senate Commerce, Science &  
Transportation Committee  
254 Russell Senate Office Building  
Washington, DC 20510

The Honorable Kay Bailey Hutchison  
Ranking Member  
Senate Commerce, Science &  
Transportation Committee  
560 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Rockefeller and Ranking Member Hutchison:

The Maritime Cabotage Task Force ("MCTF") is writing to express its concerns about and objections to certain coastwise waivers contained in Sections 1301 and 1302 of Title XIII of the House-passed version of the Fiscal Year 2010 Coast Guard Authorization bill (H.R. 3619). The MCTF specifically asks that Congress not legislatively grant coastwise privileges for the vessels M/V GEYSIR (U.S. Official Number 622178), GALLANT LADY (Feanship Hull Number 672), ST. MARYS CEMENT (U.S. Official Number 699114), MAYA (U.S. Official Number 11073), OCEAN VERITAS (IMO Number 7366805) and AIDEA FDD-2 (State of Alaska registration AIDEA FDD-2). The MCTF believes that these vessel specific waivers of federal law are not justified and/or could have an adverse competitive impact on existing operators in the coastwise market. The MCTF urges the Senate not to include these waivers in a companion Senate bill, or in any final bills ultimately enacted by Congress.

The MCTF is a broad-based coalition representing the U.S. domestic maritime industry. Comprised of more than 400 American companies, associations, shipyards, labor organizations, defense groups, and others interested in maintaining America's strong domestic maritime industry, the MCTF is a leading advocate for the U.S. maritime cabotage laws, including the Jones Act. The nation's maritime cabotage laws restrict the use of foreign-built, foreign-flag, foreign-owned, or foreign-crewed vessels from operating in the domestic coastwise trades of the United States. The laws also stipulate that coastwise qualified vessels will lose their coastwise trading privileges if a vessel is sold foreign or documented under foreign registry. These laws are important to ensuring, among others, a level competitive playing field for American companies operating in the U.S. domestic trades and future investment by American companies for coastwise qualified vessels for those trades.

After careful review of each individual waiver and what is known about the specific justifications for their respective requests, the MCTF opposes the coastwise waivers passed by the House for the vessels M/V GEYSIR (U.S. Official Number 622178), GALLANT LADY (Feaship Hull Number 672), ST. MARYS CEMENT (U.S. Official Number 699114), MAYA (U.S. Official Number 11073), OCEAN VERITAS (IMO Number 7366805) and AIDEA FDD-2 (State of Alaska registration AIDEA FDD-2), and asks that coastwise privileges not be legislatively granted.

Due to their unique set of circumstances, the MCTF does not oppose waivers for ZIPPER (State of New York regulation number NY3205EB) or GULF DIVER IV (U.S. Official Number 553457). Specifically, ZIPPER is a vessel that would be used by a museum and GULF DIVER IV is a U.S.-built, U.S.-flag vessel that has never operated outside of U.S. registry, has not had work performed on the vessel in a foreign shipyard, and is planning to perform substantial work on the vessel in a U.S. shipyard. Neither vessel poses an unfair competitive threat to existing U.S.-flag coastwise operators.

American maritime companies make significant investments into their operations in reliance on these laws, including specifically those laws that cover the loss of coastwise privileges because the vessel is sold foreign or documented under foreign registry. Permitting these legislative coastwise waivers could upset the competitive balance of the domestic trades. For example, permitting the dredge MAYA to obtain coastwise privileges would undermine the investments made by the dredging industry to meet the demands of the trade during the period the vessel was under foreign registry. This is unfair to American companies making investments in reliance on the law, and not seeking to change the law to gain an unfair competitive advantage.

Similar situations arise in each of the other cases where waivers are being sought, whether permitting the operator of M/V GEYSIR, a vessel that previously operated under the Norwegian registry, to compete against existing ship and tug/barge operators or allowing OCEAN VERITAS, a formerly foreign registered vessel that has gone through numerous conversions, to compete against current other offshore supply vessels. There is also a questionable need for a coastwise waiver for a Chinese-built floating drydock – AIDEA FDD-2 – and believe the owner(s) or operator(s) should exhaust its administrative remedies (i.e., a private letter ruling from Customs and Border Protection) to determine the vessels compliance with the coastwise laws prior to any consideration of a legislative waiver.

One waiver request in particular appears to reflect a pattern of disregard for the coastwise laws. The owners of GALLANT LADY have in the past successfully secured two coastwise waivers for similar vessels (both ironically named GALLANT LADY), and therefore should have a clear understanding of U.S. cabotage laws governing the construction and purchase of vessels for the coastwise trade. Yet, again, the same parties are seeking a third waiver for another GALLANT LADY, which is included in H.R. 3619.

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We appreciate your consideration in this important matter and look forward to working with the Committee on this important issue.

Sincerely,

Brenda Otterson  
American Maritime Officers Service

Thomas Allegretti  
American Waterways Operators

Terry Turner  
American Shipping Group

Michael Roberts  
Crowley Maritime Corp.

Barry Holliday  
Dredging Contractors of America

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Matson Navigation Company

Eric Smith  
Overseas Shipholding Group

Matt Paxton  
Shipbuilders Council of America

James Henry  
Transportation Institute

cc: The Honorable Maria Cantwell  
Chairman, Senate Oceans, Atmosphere, Fisheries, and Coast Guard Subcommittee

The Honorable Olympia Snowe  
Ranking Member, Senate Oceans, Atmosphere, Fisheries, and Coast Guard  
Subcommittee

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**Jim Weakley**  
Lake Carriers' Association

The Honorable Jim Oberstar  
Chairman  
House Transportation & Infrastructure  
Infrastructure Committee  
2165 Rayburn House Office Building  
Washington, DC 20515

The Honorable John Mica  
Ranking Member  
House Transportation &  
Committee  
2163 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Oberstar and Ranking Member Mica:

The Maritime Cabotage Task Force ("MCTF") is writing to express its concerns about and objections to certain coastwise waivers contained in Sections 1301 and 1302 of Title XIII of the House-passed version of the Fiscal Year 2010 Coast Guard Authorization bill (H.R. 3619). The MCTF specifically asks that Congress not legislatively grant coastwise privileges for the vessels M/V GEYSIR (U.S. Official Number 622178), GALLANT LADY (Feadship Hull Number 672), ST. MARYS CEMENT (U.S. Official Number 699114), MAYA (U.S. Official Number 11073), OCEAN VERITAS (IMO Number 7366805) and AIDEA FDD-2 (State of Alaska registration AIDEA FDD-2). The MCTF believes that these vessel specific waivers of federal law are not justified and/or could have an adverse competitive impact on existing operators in the coastwise market.

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After careful review of each individual waiver and what is known about the specific justifications for their respective requests, the MCTF opposes six of the eight coastwise waivers included in the House-passed version of H.R. 3619. Due to their unique set of circumstances, the MCTF does not oppose waivers for ZIPPER (State of New York regulation number NY3205EB) or GULF DIVER IV (U.S. Official Number 553457). Specifically, ZIPPER is a vessel that would be used by a museum and GULF DIVER IV is a U.S.-built, U.S.-flag vessel that has never operated outside of U.S. registry, has not had work performed on the vessel in a foreign shipyard, and is planning to perform substantial work on the vessel in a U.S. shipyard. Neither vessel poses an unfair competitive threat to existing U.S.-flag coastwise operators.

American maritime companies make significant investments into their operations in reliance on these laws, including specifically those laws that cover the loss of coastwise privileges because the vessel is sold foreign or documented under foreign registry. Permitting these legislative coastwise waivers could upset the competitive balance of the domestic trades. For example, permitting the dredge MAYA to obtain coastwise privileges would undermine the investments made by the dredging industry to meet the demands of the trade during the period the vessel was under foreign registry. This is unfair to American companies making investments in reliance on the law, and not seeking to change the law to gain an unfair competitive advantage.

Similar situations arise in each of the other cases where waivers are being sought, whether permitting the operator of M/V GEYSIR, a vessel that previously operated under the Norwegian registry, to compete against existing ship and tug/barge operators or allowing OCEAN VERITAS, a formerly foreign registered vessel that has gone through numerous conversions, to compete against current other offshore supply vessels. There is also a questionable need for a coastwise waiver for a Chinese-built floating drydock – AIDEA FDD-2 – and believe the owner(s) or operator(s) should exhaust its administrative remedies (i.e., a private letter ruling from Customs and Border Protection) to determine the vessels compliance with the coastwise laws prior to any consideration of a legislative waiver.

One waiver request in particular appears to reflect a pattern of disregard for the coastwise laws. The owners of GALLANT LADY have in the past successfully secured two coastwise waivers for similar vessels (both ironically named GALLANT LADY), and therefore should have a clear understanding of U.S. cabotage laws governing the construction and purchase of vessels for the coastwise trade. Yet, again, the same parties are seeking a third waiver for another GALLANT LADY, which is included in this bill.

As the bill moves towards passage, the MCTF strongly urges the Committee to reconsider its decision to grant coastwise waivers for the vessels M/V GEYSIR, GALLANT LADY, ST. MARYS CEMENT, MAYA, OCEAN VERITAS and AIDEA FDD-2. We look forward to working with the Committee to address this important issue.

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cc: The Honorable Elijah Cummings  
Chairman, House Coast Guard and Maritime Transportation Subcommittee

The Honorable Frank LoBiondo  
Ranking Member, House Coast Guard and Maritime Transportation Subcommittee