

CHAIRMAN DEFAZIO INTRODUCES EMERGENCY RELIEF LEGISLATION FOR THE MARITIME INDUSTRY

Date: 22 July 2020

U.S. Public Policy and Law Alert

By: Mark Ruge, Elle Stuart

Representative Peter DeFazio (D-OR), chairman of the U.S. House Transportation and Infrastructure Committee, recently introduced the Maritime Transportation System Emergency Relief Act (Maritime Relief Act). The bill could become law later this year, as the Maritime Relief Act was added to the House National Defense Authorization Act (NDAA) for Fiscal Year 2021 during consideration on the House floor as part of a package of amendments. The NDAA has been enacted for 59 consecutive years.

The U.S. House of Representatives passed the NDAA yesterday, with the Maritime Relief Act attached. The U.S. Senate is expected to vote on their version of the NDAA shortly. While the Senate NDAA does not contain a similar provision, the differences will be resolved in a House-Senate conference later this year.

The Maritime Relief Act was introduced in response to concerns voiced by the maritime industry regarding the impacts of COVID-19. The legislation would authorize grants and other assistance to eligible state entities and eligible private-sector entities that are engaged in (1) vessel construction, (2) transportation by water, or (3) support activities for transportation by water with a NAICS code, or construction related to those activities, or maritime education and training. The eligible entities are entities created or organized in the United States or under the laws of the United States, with significant operations in and a majority of its employees based in the United States.

The legislation would give the U.S. Maritime Administration (MARAD) the authority to make grants and enter into contracts or other agreements for the costs of certain capital projects directly impacted by an “emergency” and for the eligible operating costs of maritime transportation equipment and facilities also directly affected. Eligible operating costs are defined in subsection (a)(3) of the bill and include costs relating to emergency response, cleaning, janitorial services, staffing, workforce retention, personal protective equipment procurement, paid leave, repair projects, debt service, and other maritime transportation system operations. There are limitations to the grants and contract authority, which are in subsection (b) of the legislation. The cost of capital projects is limited by a determination by MARAD of need, while eligible operating costs are limited by a time frame for when grants and other contracts for eligible costs can be awarded. The federal share of costs in the legislation is 100 percent, subject to certain limitations. The current pandemic would constitute an emergency under the proposal, but emergencies are not limited to COVID-19.

The programs authorized by the Maritime Relief Act are subject to appropriations, meaning that Congress still must act to provide funds to support those programs.

The K&L Gates maritime team is carefully tracking developments with this legislation. If you have questions about how this may affect your company or otherwise, please see the contacts below.

KEY CONTACTS



MARK RUGE
PARTNER

WASHINGTON DC
+1.202.661.6231
MARK.RUGE@KLGATES.COM



ELLE STUART
ASSOCIATE

WASHINGTON DC
+1.202.778.9081
ELLE.STUART@KLGATES.COM

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