

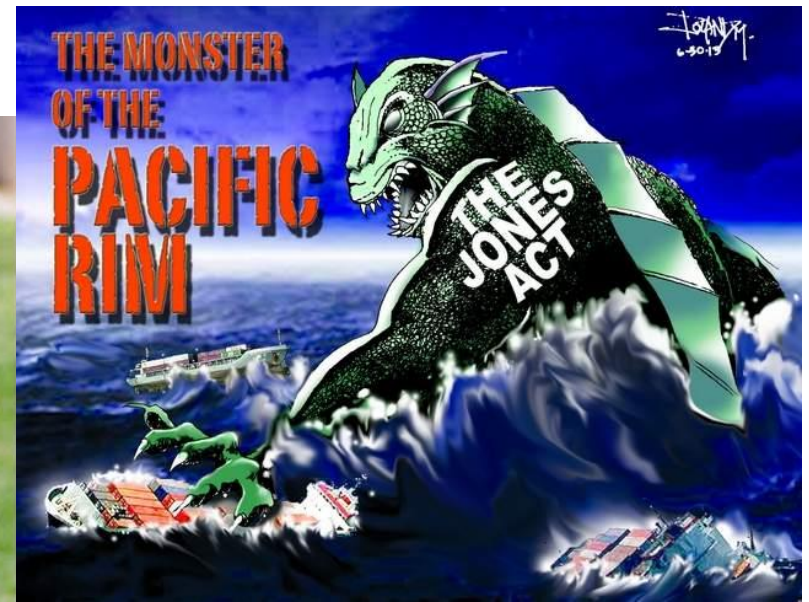
DC Update



Overview

- ❖ Jones Act
- ❖ Federalism
- ❖ Vessel Incidental Discharge Act (VIDA)
- ❖ Subchapter M (lagniappe)





- ❖ Assault upon all that is sacred to our industry
- ❖ Conservative dollars fueling at many different levels
- ❖ Notion that Cabotage laws frustrate Globalism



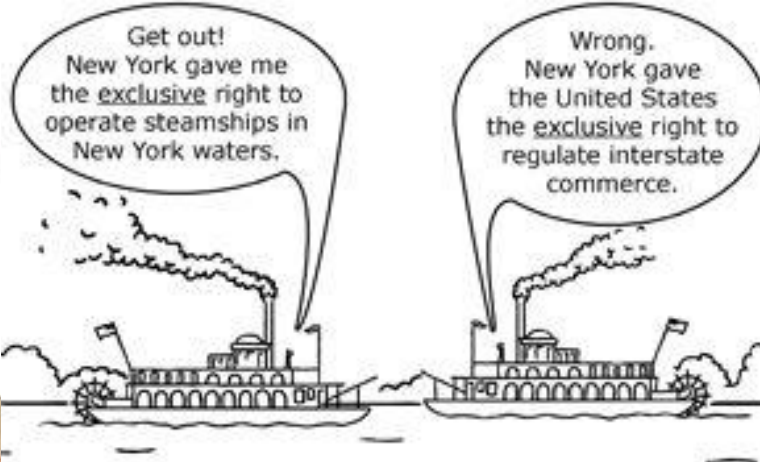
- ❖ Jones Act dividends not limited to economics
- ❖ US Navy has touted as a National Security benefit
- ❖ USCG has stressed Jones Act is an invaluable Homeland Security tool (The ultimate neighborhood watch)
- ❖ Elements of GOP stressing Security arguments



The "Commerce Clause" gives Congress the broad power to regulate all business activities that cross state lines or affect more than one state

Article I Section 8

TO REGULATE COMMERCE WITH FOREIGN NATIONS AND AMONG THE SEVERAL STATES AND WITH THE INDIAN TRIBES

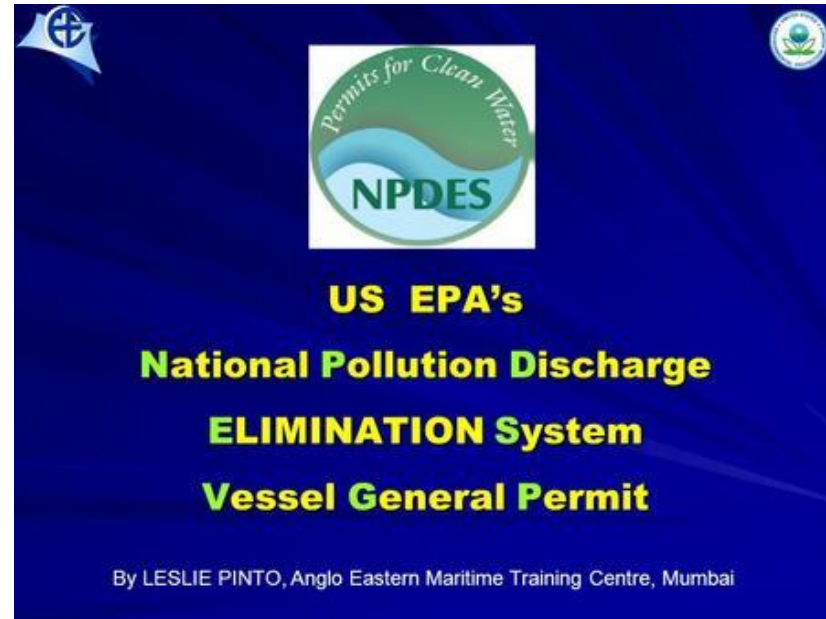


- ❖ Inland Marine Transportation is Interstate Commerce by its nature
- ❖ WA, MA, City of Port imposing regulations that disrupt uniformity
- ❖ USCG avid supporter of Federalism



VIDA (S 373/HR 980)

- ❖ Genesis - Application of Clean Water Act to Vessels
- ❖ EPA implements discharge regime for vessels (NPDES)
- ❖ Several States posturing to introduce more stringent standards
- ❖ The imperative for uniformity when navigating through several states per voyage



46 CFR Subchapter M

Parts 136-144

- Certification
- Vessel Compliance
- Towing Safety Management System (TSMS)
- Third-Party Organizations
- Operations
- Lifesaving
- Fire Protection
- Machinery and Electrical Systems and Equipment
- Construction and Arrangement



The Big Picture

- ❖ Milestone in industry safety journey
 - Raises regulatory floor industry-wide
- ❖ A new approach to Coast Guard inspection
- ❖ Rooted in AWO, TSAC recommendations
- ❖ Retires the misleading “uninspected” label
- ❖ Displaces OSHA jurisdiction
- ❖ Preempts state regulation
 - Design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, manning



Applicability

• All U.S.-flag towing vessels

• Exceptions:

- Vessels <26 feet unless moving a barge carrying oil or hazmat
- Assistance towing vessels
- Workboats operating within worksite
- Seagoing tugs >300 GRT
- Other inspected vessels that perform occasional towing



Implementation Schedule

- ❖ Rule effective 7/20/2016
- ❖ Existing vessels:
 - Most requirements in Parts 140-144 take effect 7/20/2018 or date first COI is issued, whichever is earlier
 - COI phased in between 7/2019 and 7/2022
- ❖ New vessels (keel laid/major conversion after 7/20/17):
 - Meet all requirements and obtain COI before vessel enters into service



COI Phase-In for Existing Vessels

- Fleets of >1 towing vessel:
 - 25% by 7/22/2019
 - 50% by 7/20/2020
 - 75% by 7/19/2021
 - 100% by 7/19/2022
- Fleet of 1 towing vessel: by 7/20/2020



Compliance Options

❁ Coast Guard option

- Traditional inspection; all inspections conducted by Coast Guard

❁ TSMS option

- Use of safety management system and approved Third-Party Organizations to demonstrate and verify compliance



What Is a TSMS?

- ❖ Documented, audited management system for:
 - Meeting vessel owner's established goals
 - Ensuring continuous regulatory compliance
- ❖ ISM Code
- ❖ Other existing safety management systems may be accepted
 - Coast Guard has confirmed intent to accept Responsible Carrier Program as TSMS; discussions underway to finalize ASAP



What Is a Third-Party Organization (TPO)?

- ❖ Recognized classification societies
- ❖ Other organizations may seek approval as TPO
 - TVIB intends to seek Coast Guard approval
- ❖ Delegated authorities:
 - Conduct management and vessel TSMS audits
 - Issue TSMS certificates
 - Conduct surveys and issue survey reports



TSMS vs. Coast Guard Option

❁ Required inspections

- Coast Guard option: Coast Guard inspects vessel annually
- TSMS option: Coast Guard conducts COI inspection every 5 years

❁ Required surveys and drydocking examinations

- Coast Guard option: performed by Coast Guard
- TSMS option:
 - External program in which surveys/examinations conducted by TPO;
or
 - Internal program in which surveys/examinations conducted by company personnel, either as one event or over time



TSMS vs. Coast Guard Option

- ❁ Permit to Proceed and Permit to Carry Excursion Party
 - Coast Guard option: requires OCMI approval
 - TSMS option: proceed as outlined in TSMS, notify OCMI
- ❁ Functional vs. prescriptive requirements
 - Coast Guard option: requires OCMI approval
 - TSMS option: may be documented in TSMS, approved by TPO



User Fee

- Mandated by law; fees set by regulation
- Coast Guard rulemaking to update current user fees under development
 - Inspection fees for towing vessels will differ based on compliance option chosen
- Until then:
 - No fee for initial COI
 - Subsequent annual inspection fee of \$1,030



Next Steps

- ❖ Member review of rule
- ❖ RCP acceptance as TSMS
- ❖ Ensure sufficient auditor supply
- ❖ Consultation with Coast Guard on implementation policy
- ❖ Member and industry education



Implementation Policy

- ❖ Coast Guard plan: draft NVIC with issue-specific enclosures
 - TPO guidebook, TSMS, compliance, etc.
 - Enclosures available before NVIC published
- ❖ Review draft guidance through Coast Guard-AWO Safety Partnership, TSAC
 - Prioritized review of time-sensitive subject matter
 - Ongoing forum for discussion as implementation issues and questions arise



Member and Industry Information

- ❁ Briefings/discussion sessions at summer safety and regional meetings
 - 8/10: Portland, OR
 - 8/17: Pittsburgh, PA
 - 8/24: New York, NY
 - Sept: Houma/New Orleans
- ❁ Ongoing education and implementation assistance driven by member needs



Questions

