



# A MISSED OPPORTUNITY ON CCF

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**W**hen it was passed and signed into law during the Bush Administration, the Energy Independence and Security Act of 2007 was hailed as an important and long-sought objective of the U.S. maritime community. The law was President Bush's extension of the **Maritime Administration (MARAD)** Capital Construction Fund (CCF) program to container and Roll-on/Roll-off (RO/RO) services in projects in the U.S.

At the time, the late Rep. Ken Oberstar (D-MN) and other parties who had worked to achieve this extension for more than a decade, believed that they had provided the legislative text that would enable MARAD to make the CCF program available for vessels in container and RO/RO services nationwide. And why wouldn't they think that? Since 1970, the program had been used successfully by shipyards and operators in the financing all of the large Blue water vessels in the Alaska, Hawaii and Puerto Rico trades.

The 2007 Act authorized a Short Sea Transportation (SST) program (now referred to as the American Marine Highway (AMH) program) and assigned the responsibility for its implementation to the Secretary of Transportation and MARAD.

The act also authorized MARAD to add U.S. shipyards and operators in the SST/AMH coastal and inland waterways trades as CCF Program "qualified vessel" participants.

So, it all sounds good, right? But now, 10 years into MARAD's implementation of the

2007 Act, MARAD has not received a single application for shipyard use of the CCF program; and has approved only one owner-operator application.

So what happened?

## No Passengers Allowed

When private sector sponsors of commercial vessel designs that included the carriage of passengers were presented for CCF approval, MARAD refused. MARAD's position was that Congress had only intended to expand CCF program eligibility to 100 percent pure container and RO/RO services, and that program funds could not be used if a vessel also carried passengers. MARAD insisted that new legislation would be needed in order to authorize passenger carriage.

Year by year since then, as new ROPAX projects were discussed and new ROPAX vessels were designed and built, industry awaited a MARAD recognition that no one was designing vessels, or initiating services for "no passenger" pure RO/RO services.

One colleague asked "was it only once these 'no passenger' services had been initiated that MARAD would commence its 2007 Act CCF Program implementation activities?"

Last July, a Passenger Vessel Association (PVA) colleague advised me that MARAD had apparently agreed to add one or several ROPAX vessels as "qualified vessels" to a PVA member CCF Program agreement—a move that might represent an important change in MARAD's 2007 Act "no passengers" policy.

## Not So Fast

In its PVA presentation on the MARAD CCF Program at the PVA annual meeting this past January, the Program Office made it clear that ROPAX services were not to be per se qualified and stated that MARAD would assess liquidated damages based upon the measures of passenger carriage.

Thus, the make-up mix of ROPAX cargo/passenger services could not be determined by private sector customer demand without MARAD assistance. CCF qualification of ROPAX services would be matters fixed (informally and subject to change) by MARAD.

And, there are no MARAD regulations in 46 CFR Part 390 to provide guidance. Program decisions are apparently made on an inquiry-by-inquiry basis, informally and without publication, and can be withdrawn or changed without public notice.

So perhaps one can understand why a CCF Program with almost 50 years of successful applications by shipyards and operators in 1970 Act qualifying trades, has been ignored by private sector project decision-makers in evaluating 2007 Act opportunities.

It's a missed opportunity to help support private investment in U.S. transportation infrastructure, U.S. mariner jobs, and the U.S. industrial base at a time when U.S. operators and U.S. shipyards are looking for favorable financing options and much needed work. 🌱