

AMENDMENT TO RULES COMMITTEE PRINT 118-

10

OFFERED BY MR. JOHNSON OF SOUTH DAKOTA

At the end of the bill, add the following:

1 **DIVISION E—OCEAN SHIPPING**
2 **REFORM IMPLEMENTATION**
3 **ACT OF 2023**

4 **SECTION 1. SHORT TITLE.**

5 This division may be cited as the “Ocean Shipping
6 Reform Implementation Act of 2023”.

7 **TITLE I—FEDERAL MARITIME**
8 **COMMISSION**

9 **SEC. 101. PURPOSES.**

10 Section 40101 of title 46, United States Code, is
11 amended—

12 (1) in paragraph (1) by striking “with” and all
13 that follows through “regulatory costs”;

14 (2) in paragraph (2) by striking “in the ocean
15 commerce of the United States” and inserting “for
16 the common carriage of goods by water in the for-
17 eign commerce of the United States”;

18 (3) in paragraph (3) by striking “and” at the
19 end;

1 (4) in paragraph (4)—

2 (A) by striking “promote” and inserting
3 “support”; and

4 (B) by striking “, and” and all that follows
5 through the period and inserting “; and”; and

6 (5) by adding at the end the following:

7 “(5) promote reciprocal trade in the common
8 carriage of goods by water in the foreign commerce
9 of the United States.”.

10 **SEC. 102. DEFINITIONS.**

11 (a) IN GENERAL.—Section 40102(9) of title 46,
12 United States Code, is amended—

13 (1) by redesignating subparagraphs (A) and
14 (B) as clauses (i) and (ii), respectively and by mov-
15 ing the margins of clauses (i) and (ii), as redesi-
16 gnated, accordingly;

17 (2) by striking “means an ocean common car-
18 rier” and inserting the following: “means—

19 “(A) an ocean common carrier”;

20 (3) in subparagraph (A)(ii), as so redesignated,
21 by striking the period and inserting “; or”; and

22 (4) by adding at the end the following:

23 “(B) such a carrier that is owned or con-
24 trolled by, a subsidiary of, or otherwise related
25 legally or financially (other than a minority re-

1 relationship or investment) to a corporation based
2 in a country—

3 “(i) identified as a nonmarket econ-
4 omy country (as defined in section 771(18)
5 of the Tariff Act of 1930 (19 U.S.C.
6 1677(18))) as of the date of enactment of
7 this paragraph;

8 “(ii) identified by the United States
9 Trade Representative in the most recent
10 report required by section 182 of the
11 Trade Act of 1974 (19 U.S.C. 2242) as a
12 priority foreign country under subsection
13 (a)(2) of that section; or

14 “(iii) subject to monitoring by the
15 United States Trade Representative under
16 section 306 of the Trade Act of 1974 (19
17 U.S.C. 2416).”

18 (b) CONFORMING AMENDMENT.—Section
19 46106(b)(7) of title 46, United States Code, is amended
20 by striking “ocean common carriers, particularly such car-
21 riers that are controlled carriers” and all that follows
22 through the period at the end and inserting “controlled
23 carriers;”.

1 **SEC. 103. COMPLAINTS AGAINST SHIPPING EXCHANGES.**

2 (a) IN GENERAL.—Section 40504(c) of title 46,
3 United States Code, is amended—

4 (1) in the subsection heading by striking “EX-
5 EMPTION” and inserting “EXEMPTION AND INVES-
6 TIGATION”;

7 (2) by striking the period at the end and insert-
8 ing “; and”;

9 (3) by striking “may exempt” and inserting the
10 following: “may—

11 “(1) exempt”; and

12 (4) by adding at the end the following:

13 “(2) investigate complaints submitted under
14 section 40505.”.

15 (b) COMPLAINTS AGAINST SHIPPING EXCHANGES.—
16 Chapter 405 of title 46, United States Code, is amended
17 by adding at the end the following:

18 **“§ 40505. Complaints against shipping exchanges**

19 “(a) IN GENERAL.—A person may submit to the
20 Federal Maritime Commission, and the Commission shall
21 accept, information concerning alleged incidents of market
22 manipulation or other anticompetitive practices by ship-
23 ping exchanges registered under section 40504.

24 “(b) INVESTIGATION.—Upon receipt of a submission
25 of information under subsection (a), the Commission shall
26 promptly investigate the accuracy of such information.

1 “(c) REPORT TO CONGRESS.—The Commission shall
2 submit to the Committee on Transportation and Infra-
3 structure of the House of Representatives and the Com-
4 mittee on Commerce, Science, and Transportation of the
5 Senate the results of any investigation in which the Com-
6 mission finds incidents of market manipulation or anti-
7 competitive practices by shipping exchanges registered
8 under section 40504.”.

9 (c) CLERICAL AMENDMENT.—The analysis for chap-
10 ter 405 of title 46, United States Code, is amended by
11 adding at the end the following:

“40505. Complaints against shipping exchanges.”.

12 **SEC. 104. REPEAL.**

13 (a) IN GENERAL.—Section 40706 of title 46, United
14 States Code, is repealed.

15 (b) CLERICAL AMENDMENT.—The analysis for chap-
16 ter 407 of title 46, United States Code, is amended by
17 striking the item relating to section 40706.

18 **SEC. 105. DATA COLLECTION.**

19 Section 41110 of title 46, United States Code, is
20 amended—

21 (1) by striking “The Federal Maritime Commis-
22 sion” and inserting “(a) QUARTERLY REPORT.—The
23 Federal Maritime Commission”; and

24 (2) by adding at the end the following:

1 “(b) LIMITATION ON DUPLICATION.—Unless the
2 data described in paragraphs (1) and (2) is not available
3 in a timely manner or in a form that allows the Commis-
4 sion to meet the requirements of subsection (a), data re-
5 quired to be reported under subsection (a) may not dupli-
6 cate information—

7 “(1) submitted to the Corps of Engineers pur-
8 suant to section 11 of the Act entitled ‘An Act au-
9 thorizing the construction, repair, and preservation
10 of certain public works on rivers and harbors, and
11 for other purposes’, approved September 22, 1922
12 (33 U.S.C. 555), by an ocean common carrier acting
13 as a vessel operator;

14 “(2) submitted pursuant to section 481 of the
15 Tariff Act of 1930 (19 U.S.C. 1481) to U.S. Cus-
16 toms and Border Protection by merchandise import-
17 ers; or

18 “(3) submitted to the Department of Commerce
19 pursuant to section 301 of title 13.”.

20 **SEC. 106. NATIONAL ADVISORY COMMITTEES.**

21 (a) NATIONAL SHIPPER ADVISORY COMMITTEE.—
22 Section 42502 of title 46, United States Code, is amend-
23 ed—

1 (1) in subsection (a) by striking “Committee.”
2 and inserting “Committee (in this section referred to
3 as the ‘Shipper Committee’).”;

4 (2) by striking subsection (b);

5 (3) by redesignating subsection (c) as sub-
6 section (b); and

7 (4) in subsection (b), as so redesignated, by
8 striking “Committee” each place it appears and in-
9 serting “Shipper Committee”.

10 (b) NATIONAL PORT ADVISORY COMMITTEE.—Chap-
11 ter 425 of title 46, United States Code, is amended—

12 (1) by redesignating section 42503 as section
13 42506; and

14 (2) by inserting after section 42502 the fol-
15 lowing:

16 **“§ 42503. National Port Advisory Committee**

17 “(a) ESTABLISHMENT.—There is established a Na-
18 tional Port Advisory Committee (in this section referred
19 to as the ‘Port Committee’).

20 “(b) MEMBERSHIP.—

21 “(1) IN GENERAL.—The Port Committee shall
22 consist of 13 members appointed by the Commission
23 in accordance with this section.

24 “(2) EXPERTISE.—Each member of the Port
25 Committee shall have particular expertise, knowl-

1 edge, and experience in matters relating to the func-
2 tion of the Port Committee.

3 “(3) REPRESENTATION.—Members of the Port
4 Committee shall be appointed as follows:

5 “(A) 5 members shall represent marine
6 terminal operators, as defined in section 40102.

7 “(B) 5 members shall represent port au-
8 thorities.

9 “(C) 3 members shall represent longshore
10 and maritime labor.

11 **“§ 42504. National Ocean Carrier Advisory Committee**

12 “(a) ESTABLISHMENT.—There is established a Na-
13 tional Ocean Carrier Advisory Committee (in this section
14 referred to as the Carrier Committee’).

15 “(b) MEMBERSHIP.—

16 “(1) IN GENERAL.—The Carrier Committee
17 shall consist of 9 members appointed by the Com-
18 mission in accordance with this section.

19 “(2) EXPERTISE.—Each member of the Carrier
20 Committee shall have particular expertise, knowl-
21 edge, and experience in matters relating to the func-
22 tion of the Committee.

23 “(3) REPRESENTATION.—Members of the Car-
24 rier Committee shall represent ocean carriers serving
25 such seaports and terminals, of which at least three

1 shall be ocean transportation intermediaries (as such
2 term is defined in section 40102)”.

3 **“§ 42505. Function**

4 “The covered Committees shall advise the Federal
5 Maritime Commission on policies relating to the competi-
6 tiveness, reliability, and efficiency of the international
7 ocean freight delivery system.”.

8 (c) CONFORMING AMENDMENTS.—

9 (1) DEFINITIONS.—Section 42501 of title 46,
10 United States Code, is amended by striking para-
11 graph (2) and inserting the following:

12 “(2) COVERED COMMITTEE.—The term ‘cov-
13 ered Committee’ means—

14 “(A) the National Shipper Advisory Com-
15 mittee established under section 42502;

16 “(B) the National Port Advisory Com-
17 mittee established under section 42503; and

18 “(C) the National Ocean Carrier Advisory
19 Committee established under section 52504.”.

20 (2) ADMINISTRATION.—Section 42506 of title
21 46, United States Code, as redesignated by sub-
22 section (b)(1), is amended—

23 (A) by striking “The Committee” each
24 place it appears except in subsection (k) and in-
25 serting “Each covered Committee”;

1 (B) in subsection (a) by striking “the
2 Committee” and inserting “each such Com-
3 mittee”;

4 (C) in subsections (b), (c), (d), (e), (f), and
5 (j) by striking “the Committee” each place it
6 appears and inserting “a covered Committee”;

7 (D) in subsection (h)—

8 (i) in paragraph (1)—

9 (I) by striking “Chair of the
10 Committee” and inserting “Chair of
11 each covered Committee”; and

12 (II) by striking “function of the
13 Committee” and inserting “function
14 of the applicable Committee”; and

15 (ii) in paragraph (2) by striking “the
16 Committee” and inserting “each covered
17 Committee”;

18 (E) in subsection (i)—

19 (i) in paragraph (1) by striking “the
20 Committee if the function of the Com-
21 mittee” and inserting “any relevant cov-
22 ered Committee if the function of such
23 Committee”;

1 (ii) in paragraph (2) by striking “the
2 Committee” and inserting “each such
3 Committee”;

4 (iii) in paragraph (3)—

5 (I) by striking “from the Com-
6 mittee” and inserting “from a covered
7 Committee”; and

8 (II) in subparagraph (B) by
9 striking “to the Committee” and in-
10 sserting “to the submitting Com-
11 mittee”; and

12 (iv) in paragraph (4) by striking
13 “from the Committee” and inserting “from
14 a covered Committee”; and

15 (F) in subsection (k) by striking “The
16 Committee” and inserting “Covered Commit-
17 tees”.

18 **SEC. 107. ANNUAL REPORT AND PUBLIC DISCLOSURES.**

19 (a) REPORT ON FOREIGN LAWS AND PRACTICES.—
20 Section 46106(b) of title 46, United States Code, is
21 amended—

22 (1) in paragraph (6)—

23 (A) by striking “and” at the end; and

24 (B) by striking “under this part” and in-
25 sserting “under chapter 403”;

1 (2) in paragraph (7)—

2 (A) by inserting “anticompetitive, non-
3 reciprocal trade, or” before “otherwise con-
4 cerning practices”;

5 (B) by inserting “or marine terminal oper-
6 ators” after “controlled carriers”; and

7 (C) by striking the period at the end and
8 inserting a semicolon; and

9 (3) by adding at the end the following:

10 “(8) an analysis of any trade imbalance result-
11 ing from the business practices of ocean common
12 carriers, including an analysis of the data collected
13 under section 41110; and

14 “(9) the aggregated findings and results of the
15 Vessel-Operating Common Carrier Audit Program
16 established by the Commission on July 18, 2021,
17 pursuant to the Commission rule interpreting section
18 41102(e).”.

19 (b) PUBLIC DISCLOSURE.—Section 46106(d)(2) of
20 title 46, United States Code, is amended by inserting “or
21 marine terminal operator” after “common carrier”.

22 **SEC. 108. CONTAINERIZED FREIGHT INDEXES.**

23 (a) IN GENERAL.—Not later than 1 year after the
24 date of enactment of this Act, the Federal Maritime Com-
25 mission shall promulgate an advance notice of proposed

1 rulemaking on price indexes for containerized ocean
2 freight for shippers (as such term is defined in section
3 40102 of title 46, United States Code) in the United
4 States published by a shipping exchange registered under
5 section 40504 of title 46, United States Code.

6 (b) FINAL RULE.— Not later than 3 years after the
7 date of enactment of this Act, the Commission shall pub-
8 lish a final rule with respect to the advance notice of pro-
9 posed rulemaking under subsection (a).

10 **TITLE II—OTHER AGENCIES**

11 **SEC. 201. DATA STANDARD FOR MARITIME FREIGHT LOGIS-** 12 **TICS.**

13 (a) IN GENERAL.—Not later than 180 days after the
14 date of enactment of this Act, the Federal Maritime Com-
15 mission shall promulgate an advance notice of proposed
16 rulemaking on a data standard for maritime freight logis-
17 ties and ocean transportation in the foreign commerce of
18 the United States.

19 (b) CONSULTATION.—During the public comment pe-
20 riod for the rulemaking under subsection (a), the Commis-
21 sion shall consult with—

22 (1) the National Shippers Advisory Board es-
23 tablished under section 42502 of title 46, United
24 States Code; and

1 (2) the Secretaries of Transportation, Com-
2 merce, and Agriculture.

3 (c) CONTENTS.—The rulemaking under subsection
4 (a) shall—

5 (1) develop a data standard for the voluntary
6 sharing of appropriate supply chain data with—

7 (A) a common lexicon of standard terms
8 and methods of measurements;

9 (B) a method to exchange data in real
10 time amongst relevant stakeholders;

11 (C) appropriate data protections to ensure
12 confidentiality of proprietary business informa-
13 tion; and

14 (D) appropriate cybersecurity measures to
15 protect data from unauthorized use;

16 (2) incorporate data from stakeholders to facili-
17 tate—

18 (A) the arrival, unloading, loading, and de-
19 parture of vessels;

20 (B) cargo availability and pick up reserva-
21 tion;

22 (C) chassis availability; and

23 (D) other data elements the Commission
24 consider prudent; and

1 (3) consider relevant data standards used or
2 under development within the private sector and
3 whether to adopt or otherwise incorporate such
4 standards into the rule finalized under this sub-
5 section, with priority given to standards that—

6 (A) are developed in open, transparent, im-
7 partial, balanced, consensus-based processes;

8 (B) are performance-based, technology
9 neutral, and vendor neutral;

10 (C) are interoperable, allowing for the ex-
11 change and use of data between devices and
12 systems;

13 (D) are market relevant and globally appli-
14 cable;

15 (E) are nonduplicative of, and coherent
16 with, other relevant standards, guides, best
17 practices, and frameworks; and

18 (F) allow information owners to control
19 what information is shared, when information is
20 shared, with whom, and for what purpose; and

21 (4) be consistent with section 12(d) of the Na-
22 tional Technology Transfer and Advancement Act of
23 1995 (Public Law 104–113; 15 U.S.C. 272 note) in-
24 cluding any standard for the voluntary sharing of
25 appropriate supply chain data developed thereunder.

1 (d) THIRD-PARTY AGREEMENT.—The Commission
2 may enter into an agreement with 1 or more appropriate
3 independent entities based in the United States that oper-
4 ate as voluntary consensus standards setting organizations
5 as defined for purposes of section 12(d) of the National
6 Technology Transfer and Advancement Act of 1995 (Pub-
7 lic Law 104–113) and Office of Management and Budget
8 Revised Circular A–119, published in the Federal Register
9 on January 27, 2016 (81 Fed. Reg. 4673), to develop the
10 data standard for maritime freight logistics and ocean
11 transportation in the foreign commerce of the United
12 States for the rulemaking under subsection (a) and for
13 procurement or other relevant programmatic activities,
14 consistent with the requirements of this section.

15 (e) GRANT CRITERION.—If the rulemaking under
16 subsection (a) is finalized, the Secretary of Transportation
17 may require a covered port authority to adopt any data
18 standard issued pursuant to this section for relevant oper-
19 ational use cases, as determined by the Secretary.

20 (f) DEFINITION OF COVERED PORT AUTHORITY.—
21 In this section, the term “covered port authority” means
22 a port authority that receives funding after the date on
23 which a rule is finalized under this section under—

1 (b) ELEMENTS.—The study and assessment required
2 under subsection (a) shall address the following:

3 (1) The influence of the government of the Peo-
4 ple’s Republic of China on the Shanghai Shipping
5 Exchange.

6 (2) The impact of such business practices or in-
7 fluence on American consumers and businesses.

8 (3) The ability of a shipping exchange reg-
9 istered under section 40504 of title 46, United
10 States Code, and based in the United States to iden-
11 tify market manipulation as described in subsection
12 (a)(2) or any otherwise concerning practices by the
13 Shanghai Shipping Exchange and report such inci-
14 dents to the Federal Maritime Commission and
15 other Federal regulators.

16 (4) Any other matters the Secretary or the ap-
17 propriate independent entity that enters into an
18 agreement under this section determines to be ap-
19 propriate for the purposes of the study.

20 (c) REPORT.—

21 (1) IN GENERAL.—Not later than 1 year after
22 the date on which the Secretary of Transportation
23 enters into an agreement under this section, the ap-
24 propriate independent entity shall submit to the Sec-
25 retary, the Committee on Commerce, Science, and

1 Transportation of the Senate, and the Committee on
2 Transportation and Infrastructure of the House of
3 Representatives a report setting forth the results of
4 the study conducted under subsection (a).

5 (2) PUBLIC AVAILABILITY.—The Secretary
6 shall publish the report required under paragraph
7 (1) on a publicly accessible website of the Depart-
8 ment of Transportation.

9 (d) APPROPRIATE INDEPENDENT ENTITY DE-
10 SCRIBED.—An appropriate independent entity described
11 in this subsection is—

12 (1) a federally funded research and development
13 center sponsored by a Federal agency;

14 (2) the Transportation Research Board of the
15 National Academies;

16 (3) the Government Accountability Office; or

17 (4) an organization described in section 501(c)
18 of the Internal Revenue Code of 1986 and exempt
19 from taxation under section 501(a) of such Code.

20 (e) OBTAINING OFFICIAL DATA.—The appropriate
21 independent entity that enters into an agreement under
22 this section may secure directly from any department or
23 agency of the Federal Government information necessary
24 to enable such entity to carry out this section. Upon re-
25 quest of such entity, the head of such department or agen-

1 cy shall furnish such information to the appropriate inde-
2 pendent entity, unless doing so would not be in the public
3 interest.

4 **SEC. 203. POLICY WITH RESPECT TO LOGINK.**

5 (a) IN GENERAL.—Chapter 503 of title 46, United
6 States Code, is amended by adding at the end the fol-
7 lowing:

8 **“§ 50309. Prohibited use**

9 “(a) IN GENERAL.—A covered entity shall not utilize
10 covered logistics software.

11 “(b) GUIDANCE.—The Secretary of Transportation
12 shall publish on the website of the Department of Trans-
13 portation, and update regularly, a list of prohibited logis-
14 tics information technologies provided by the People’s Re-
15 public of China or Chinese state-affiliated entities.

16 “(c) CONSULTATION.—The Secretary shall consult
17 with the United States-China Economic and Security Re-
18 view Commission established under section 1238 of the
19 Floyd D. Spence National Defense Authorization Act for
20 Fiscal Year 2001 (Public Law 106–398) in carrying out
21 this section.

22 “(d) REVIEW.—In preparing the guidance under sub-
23 section (b), the Secretary shall review the list of Chinese
24 state-affiliated entities included in—

1 “(1) the list of Communist Chinese military
2 companies released by the Department of Defense in
3 accordance with section 1260H of the National De-
4 fense Authorization Act for Fiscal Year 2021 (10
5 U.S.C. 113 note); and

6 “(2) the most recent ‘Non-SDN Chinese Mili-
7 tary-Industrial Complex Companies List’ published
8 by the Secretary of the Treasury pursuant to Execu-
9 tive Order 14032 of June 3, 2021 (86 Fed. Reg.
10 30145; relating to Addressing the Threat From Se-
11 curities Investments That Finance Certain Compa-
12 nies of the People’s Republic of China).

13 “(e) DEFINITIONS.—In this section:

14 “(1) COVERED LOGISTICS SOFTWARE.—The
15 term ‘covered logistics software’ means—

16 “(A) the public, open, shared logistics in-
17 formation network known as the ‘National Pub-
18 lic Information Platform for Transportation &
19 Logistics’ by the Ministry of Transport of
20 China or any affiliate or successor entity;

21 “(B) any other transportation logistics
22 software designed to be used by covered entities
23 subject to the jurisdiction, ownership, direction,
24 or control of a foreign adversary; or

1 “(C) any other logistics platform or soft-
2 ware that shares data with a system described
3 in paragraphs (a) or (b).

4 “(2) COVERED ENTITY.—The term ‘covered en-
5 tity’ means an entity that receives funding after the
6 date of enactment of this section under—

7 “(A) the port infrastructure development
8 program under subsections (a) and (b) of sec-
9 tion 54301; or

10 “(B) the maritime transportation system
11 emergency relief program under section
12 50308.”.

13 (b) CLERICAL AMENDMENT.—The analysis for chap-
14 ter 503 of title 46, United States Code, is amended by
15 adding at the end the following:

 “50309. Prohibited use.”.

16 **TITLE III—TECHNICAL**
17 **AMENDMENTS**

18 **SEC. 301. TECHNICAL AMENDMENTS.**

19 (a) ADMINISTRATION.—Section 15109 of title 46,
20 United States Code, is amended—

21 (1) in subsection (a)(2) by striking “15102,”
22 and inserting “15102”; and

23 (2) in subsection (k)(1) by inserting “or to
24 which this chapter applies” after “under this chap-
25 ter”.

1 (b) INVESTIGATIONS.—Section 41302(a) of title 46,
2 United States Code, is amended by striking “conduct
3 agreement” and inserting “conduct, agreement”.

4 (c) AWARD OF REPARATIONS.—Section 41305(c) is
5 amended by striking “section subsection” and inserting
6 “subsection”.

7 (d) NATIONAL SHIPPER ADVISORY COMMITTEE.—
8 Section 42502(b)(3) of title 46, United States Code, as
9 redesignated by the preceding provisions of this Act, is
10 amended by striking “(3) REPRESENTATION” and all that
11 follows through “Twelve members” and inserting the fol-
12 lowing:

13 “(3) REPRESENTATION.—Members of the Com-
14 mittee shall be appointed as follows:

15 “(A) Twelve members”.

16 (e) MONETARY PENALTIES OR REFUNDS.—The anal-
17 ysis for chapter 411 of title 46, United States Code, is
18 amended by striking the item relating to section 41107
19 and inserting the following:

“41107. Monetary penalties or refunds.”.

20 (f) NATIONAL ADVISORY COMMITTEES.—The anal-
21 ysis for subtitle IV of title 46, United States Code, is
22 amended by striking the item relating to chapter 425 and
23 inserting the following:

“425. National Advisory Committees 42501”.

1 (g) ANALYSIS.—The heading and analysis for chapter
2 425 of title 46, United States Code, is amended to read
3 as follows:

4 **“CHAPTER 425—NATIONAL PORT**
5 **ADVISORY COMMITTEE**

“Sec.
“42501. Definitions.
“42502. National Shipper Advisory Committee.
“42503. National Port Advisory Committee.
“42504. National Ocean Carrier Advisory Committee.
“42505. Function.
“42506. Administration.”.

6 (h) ANNUAL REPORT AND PUBLIC DISCLOSURE.—

7 (1) CONFORMING AMENDMENT.—The heading
8 for section 46106 of title 46, United States Code, is
9 amended by inserting **“and public disclosure”**
10 after **“report”**.

11 (2) CLERICAL AMENDMENT.—The analysis for
12 chapter 461 of title 46, United States Code, is
13 amended by striking the item relating to section
14 46106 and inserting the following:

“46106. Annual report and public disclosure.”.

