

LOUISIANA



HOUSE OF REPRESENTATIVES

April 11, 2017

Via email: Response@cbp.dhs.gov

Mr. Glen E. Vereb
Director, Border Security and Trade Compliance Division
Office of Trade, Regulations and Rulings
U.S. Customs and Border Protection
90 K Street, NE
Washington, DC 20229

Dear Director Vereb:

As Members of the Louisiana State House of Representatives, we write in support of Customs and Border Protection's ("CBP") Notice in the January 18, 2017 edition of the *Customs Bulletin* entitled, "Proposed Modification and Revocation of Ruling Letters Related to Customs Application of the Jones Act to the Transportation of Certain Merchandise and Equipment between Coastwise Points" (the "Notice"). This notice shall ensure our federal laws are enforced correctly and help to protect and provide for our state's economy.

Our nation has always had a strong maritime tradition, dating back to the first cabotage law passed by Congress and signed into law in 1789. The modern iteration of this law, the Jones Act, which requires vessels transiting between two U.S. points must be U.S. crewed, U.S. owned, and U.S. built, clearly articulates the purpose of this law and the policy of our country:

It is necessary for the national defense and the development of the domestic and foreign commerce of the United States that the United States have a merchant marine . . . sufficient to carry the waterborne domestic commerce and a substantial part of the waterborne export . . . capable of serving as a naval and military auxiliary in time of war or national emergency . . . [and] capable of serving as a naval and military auxiliary in time of war or national emergency. (46 U.S.C. § 50101)

Louisiana has always benefited greatly from this law. Our state has more maritime jobs than any other state in the nation. Specifically, a recent study found that in 2014, the marine transportation and shipyard industries were responsible for 104,800 Louisiana jobs. In fact, if the maritime industry were a Louisiana parish (county), it would rank as our eight highest parish in terms of total jobs created. We understand that these jobs, and the economic benefit they provided to our state are owed to the Jones Act. As such, we support any policy which ensures the Jones Act is enforced as written.

The benefits provided by the Jones Act to Louisiana are not only economic. This law also provides a very large security benefit to our state. Our state is uniquely situated at the mouth of the Mississippi River, the Calcasieu River, the Atchafalaya River; along the Gulf Intracoastal Waterway; and as the closest point to most offshore oil and gas production fields in the Gulf of Mexico. As such, Louisiana has some of the busiest ports in the nation with three of the top ten busiest ports in American located in South Louisiana. These are in addition to the offshore energy ports located in Lafourche, Terrebonne, St. Mary, Iberia, and Cameron Parishes.

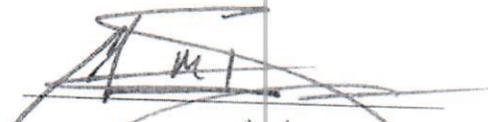
We understand that the Jones Act's requirement that the crew on vessels transiting between these ports (and offshore points) greatly lessens the security risks to our state and our constituents. Customs officials have stated that they would not be able to ensure the security of all of these miles of waterways and all of these ports if all of these vessels were crewed by foreign nationals. By ensuring the Jones Act is enforced as written the Notice will enhance the security of Louisiana and our nation.

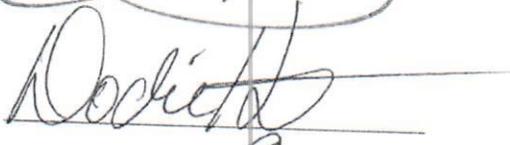
For these reasons, we urge CBP to expedite revocation of the letter rulings listed in the 2017 Notice. Taking such action, will ensure the Jones Act is enforced as written, thereby producing opportunities for the cadets that graduate from our academy and improved safety for the industry as a whole.

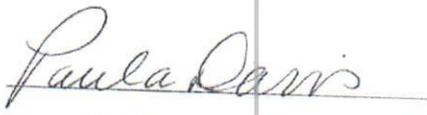
We appreciate your thoughtful consideration of these comments and stand ready to answer any questions you may have or to provide additional information.

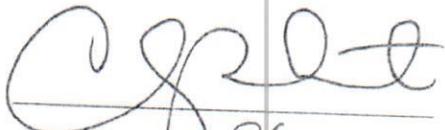
Sincerely,

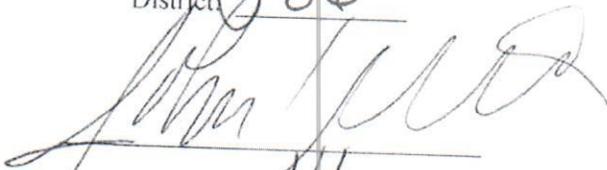

District: 48


District: 60

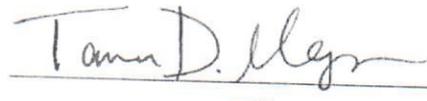

District: 9

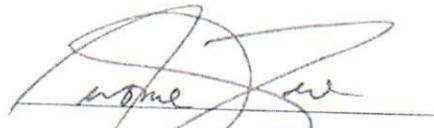

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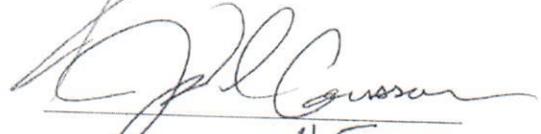

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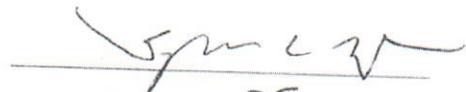

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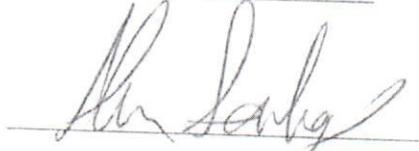


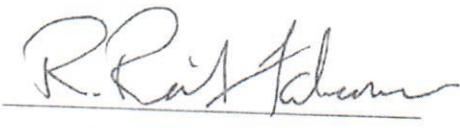

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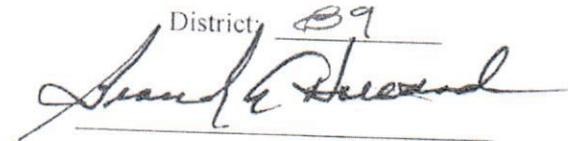

District: 52


District: 45


District: 35


District: 5


District: 89



District: 25

Wm. Price

District: ~~25~~ 44

Wm. Sloan

District: 108

Chas. Powell

District: 105

Wm. E. Bell

District: 66

J. J. Bell

District: 54

Wm. Bell

District: 46

Johnny Beetham

District: 88

Wm. Bell

District: 13

District: 24

Tommy Bandy

District: 59

Wm. Bandy

District: 20

Wm. Bandy

District: 81

Wm. Bandy

District: 65

Wm. Bandy

District: 15

Wm. Bandy

District: 43

Polly Thomas

District: 80

Wm. Bandy

District: 82

Wm. Bandy

District: 51

C&C Marine and Repair, L.L.C.
701 Engineers Road
Belle Chasse, Louisiana 70037
Office: (504) 433-2000
Fax: (504) 433-2044

April 10, 2017

Via email: Response@cbp.dhs.gov

Mr. Glen Vereb
Director
Border Security and Trade Compliance Division
Office of Trade, Regulations and Rulings
U.S. Customs and Border Protection

Re: **Proposed Modification and Revocation of Ruling Letters Related to Customs Application of the Jones Act to the Transportation of Certain Merchandise and Equipment between Coastwise Points; Request for expeditious implementation of the proposal**

To Whom It May Concern:

I am submitting this letter on behalf of C&C Marine and Repair, L.L.C., a full-service shipyard on the Gulf Intracoastal Waterway in Belle Chasse, Louisiana, which regularly employs over 100 full-time employees. The purpose of this letter is to express our support for CBP's proposed modification and revocation of Jones Act letter rulings that are contrary to the statute.

The U.S. shipbuilding industry is vital to our country's national security interests, as well as the provision of meaningful employment to a highly skilled workforce, and the proper interpretation and enforcement of the Jones Act has a direct impact on our shipyard. Since inception, our shipyard has constructed over 200 Jones Act qualified vessels and barges; and CBP's proposal encourages further investment in Jones Act compliant vessels, contrary to the chilling effect that CBP interpretations have had over the past many decades. The current CBP action, and correction of prior erroneous interpretations, is a welcomed development.

From its inception, the Jones Act has been a "Pro-American" statute, grounded firmly in a national defense policy of ensuring domestic shipbuilding and seafaring capacity, and in a national commercial policy of ensuring a strong domestic maritime industry. Our U.S. Congress explained it best in the Jones Act preamble, specifically: "[i]t is the policy of the United States to encourage and aid the development and maintenance of a merchant marine...sufficient to carry the waterborne domestic commerce . . . of the United States." U.S. Department of Defense ("DOD"), Navy, and U.S. Coast Guard officials are among the strongest supporters of the Jones Act for the contribution it makes to military sealift, all recognizing the critical importance of the statute.

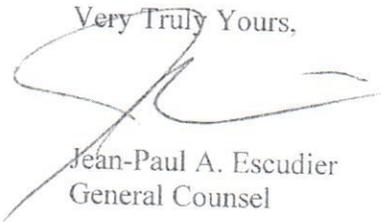
April 10, 2017

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The prior erroneous interpretations of the Jones Act worked to send American jobs to foreign shipbuilding interests, eliminating tens of thousands of American jobs and billions of dollars of American investment in the process. CBP's recent actions serve to correct that path.

CBP's expeditious implementation of the current proposed actions will mean higher American wages, additional American tax revenue, more American economic activity and heightened national security at a time when it is most needed. Accordingly, we hereby express our support of CBP's proposed actions with regard to Jones Act letter rulings.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'JP AE', is written over the typed name and title.

Jean-Paul A. Escudier
General Counsel

JPAE/

AUCOIN CLAIMS SERVICE, INC.

424 Realty Drive
Suite C
Gretna, LA 70056

Telephone: (504) 392-3100

E-mail: aucoinpat@aucoinclaims.com

Fax: (504) 394-0494

April 12, 2017

Via email: Response@cbp.dhs.gov

Mr. Glen Vereb
Director
Border Security and Trade Compliance Division
Office of Trade, Regulations and Rulings
U.S. Customs and Border Protection

Re: **Request for expeditious implementation of the Proposed Modification and Revocation of Ruling Letters Related to Customs Application of the Jones Act to the Transportation of Certain Merchandise and Equipment between Coastwise Points**

Dear Director Vereb:

I am writing to express my strong support for Customs and Border Protection's (CBP) above-listed proposed modification and revocation of Jones Act letter rulings (the "Notice"). These flawed letter rulings are inconsistent with statutory requirements and have constrained economic opportunity for U.S. companies and U.S. workers for too long. Aligning CBP's policy guidance with the law is the right thing to do and the method in which CBP is seeking revocation is the legally correct method for this endeavor.

Aucoin Claims Service is based in Gretna, Louisiana and employs four (4) full-time employees. We serve as claims adjusters and investigators to U.S. maritime companies working in the offshore energy market. Specifically, our company is engaged in claims adjusting and investigation of maritime and energy related claims.

The Jones Act was intended to support a vibrant U.S. maritime industry. By all accounts, the law works as intended. The Jones Act has created a robust domestic maritime industry and supply chain, one that creates 500,000 jobs, \$100 billion in annual economic output, and \$29 billion annual in wages. In addition, the maritime industry provides \$10 billion in tax revenue to the federal government. Correctly applying and enforcing the Jones Act, will only

amplify these benefits, resulting in more opportunities for companies like mine who depend on a strong U.S. maritime industry.

Additionally, we note that CBP is correct to revoke the letter rulings covered by the Notice via the process found at 19 U.S.C. 1625(c) ("Section 1625"). This process provides for a fair process while allowing revocation take place in an expedited fashion. The letter rulings were originally issued by CBP without any consideration of the economic harm they would cause to the domestic maritime community or businesses like ours. As a result, our industry has experienced decades of delayed shipbuilding in U.S. shipyards and lost employment of U.S. mariners.

As such, the consideration and comment that opponents of revocation have received under the current process, far exceeds absolute lack of due process provided when these letter rulings were issued. Thus, we believe the current process to be more than fair. It is also worth noting that the notice, comment, consideration, final notice process being utilized for the Notice is being conducted after CBP has considered this issue for eight years.

Not only is the Section 1625 process fair, it is also the legally designated process for revocation of letter rulings. Congress has mandated by statute a unique process for CPB's revocation of a letter ruling under Section 1625. Specifically, under this statute, CBP must give notice in the *Customs Bulletin* of its intent to revoke and provide at least 30 days opportunity for comment by the public. Subsequently, CBP must publish its final decision within 30 days of the close of the comment period. This final ruling or decision "shall" become effective 60 days after the date of its publication.

The U.S. Court of Appeals for the Federal Circuit has confirmed that 19 U.S.C. § 1625 is the proper procedure for revoking prior letter rulings. Specifically, the court state in a case (*California Indus. Prods. v. United States*, 436 F. 3d 1341, 1356 (Fed. Cir. 2006)) containing a similar context:

The government argues that the interpretation of "substantially identical transactions" in section 1625(c) adopted by the Court of International Trade conflicts with the Secretary's power to promulgate binding regulations. Under such an interpretation, the government states, the Secretary will be forced to follow "treatments" established by what it terms "aberrant decisions" of Customs officers. We do not agree... [c]ontrary to the government's argument, the interpretation of "substantially identical transactions" that we think is correct does not limit the Secretary's authority to change a prior "treatment." It simply requires that the Secretary utilize notice and comment procedures under 19 U.S.C. § 1625(c) before doing so.

Considering the above information, CBP's Notice ensures that the law is followed as written, will promote the U.S. industrial base as intended by the Jones Act, was completed after

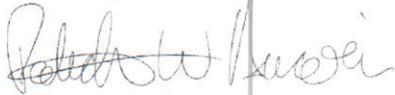
Mr. Glen Vereb
April 12, 2017
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thoughtful consideration and provides ample amount for comments from all impacted parties, and was conducted under the legally prescribed process. As such, our company strongly supports the Notice and urges CBP to implement this notice in an expedited manner.

We thank you for your thoughtful consideration of this request and stand ready to answer any questions you may have.

Thank you for taking this corrective action.

Sincerely,



PATRICK W. AUCOIN
President ~ Aucoin Claims Service, Inc.



LARIS INSURANCE AGENCY, LLC

P.O. Box 559, Lockport LA 70374-0559 Phone: (985) 532-5576 Fax (985) 532-5001

April 12, 2017

Via email: Response@cbp.dhs.gov

Mr. Glen Vereb
Director
Border Security and Trade Compliance Division
Office of Trade, Regulations and Rulings
U.S. Customs and Border Protection

Re: **Request for expeditious implementation of the Proposed Modification and Revocation of Ruling Letters Related to Customs Application of the Jones Act to the Transportation of Certain Merchandise and Equipment between Coastwise Points**

Dear Director Vereb:

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Laris Insurance Agency, LLC is based in Lockport, LA with facilities in Louisiana and employs over 50 and we serve as a service provider to U.S. maritime companies working in the offshore energy market. Specifically, our company is engaged in insurance sales.

The Jones Act was intended to support a vibrant U.S. maritime industry. By all accounts, the law works as intended. The Jones Act has created a robust domestic maritime industry and supply chain, one that creates 500,000 jobs, \$100 billion in annual economic output, and \$29 billion annual in wages. In addition, the maritime industry provides \$10 billion in tax revenue to the federal government. Correctly applying and enforcing the Jones Act, will only amplify these benefits, resulting in more opportunities for companies like mine who depend on a strong U.S. maritime industry.

Additionally, we note that CBP is correct to revoke the letter rulings covered by the Notice via the process found at 19 U.S.C. 1625(c) ("Section 1625"). This process provides for a fair process while allowing revocation take place in an expedited fashion. The letter rulings were originally issued by CBP without any consideration of the economic harm they would cause to the domestic maritime community or businesses like ours. As a result, our industry has experienced decades of delayed shipbuilding in U.S. shipyards and lost employment of U.S. mariners.

As such, the consideration and comment that opponents of revocation have received under the current process, far exceeds absolute lack of due process provided when these letter rulings were issued. Thus, we believe the current process to be more than fair. It is also worth noting that the notice, comment, consideration, final notice process being utilized for the Notice is being conducted after CBP has considered this issue for eight years.

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Considering the above information, CBP's Notice ensures that the law is followed as written, will promote the U.S. industrial base as intended by the Jones Act, was completed after thoughtful consideration and provides ample amount for comments from all impacted parties, and was conducted under the legally prescribed process. As such, our company strongly supports the Notice and urges CBP to implement this notice in an expedited manner.

We thank you for your thoughtful consideration of this request and stand ready to answer any questions you may have.

Thank you for taking this corrective action.

Sincerely,
Laris Insurance Agency, LLC



Ross Laris
Owner/Agent

Associated Federal Pilots and
Docking Masters of Louisiana, LLC
Telephone (504) 456-0787



4500 York Street, Suite 204
Metairie, Louisiana 70001
Fax (504) 456-0987

April 11, 2017

Via email: cbppublicationresponse@cbp.dhs.gov

Mr. Glen Vereb
Director
Border Security and Trade Compliance Division
Office of Trade, Regulations and Rulings
U.S. Customs and Border Protection

Dear Director Vereb:

On behalf of the Associated Federal Pilots and Docking Masters of Louisiana, I write in support of the Notice of Proposed Modification and Revocation of Ruling Letters Related to Customs Application of the Jones Act to the Transportation of Certain Merchandise and Equipment between Coastwise Points ("2017 Notice"), published on January 18, 2017. The Federal Pilots of Louisiana support the 2017 Notice because it aligns Customs and Border Protection ("CBP") interpretation of the Jones Act with the statutory requirements of this statute. Additionally, we urge that the 2017 Notice be put into effect as soon as possible, given the ongoing harm suffered by U.S. mariners.

The Federal Pilots of Louisiana were founded over 50 years ago to ensure that those vessels engaged in the Jones Act Trade had an economical, efficient and safe pilotage option when navigating the waters of the Lower Mississippi River between the Southwest Pass Seabuoy and the Head of Deep Draft Navigation in Baton Rouge. We continue that pledge to this day and have a vested interest in this great country and the proper and legal enforcement of all laws and regulations.

The Jones Act is grounded in a national defense policy of ensuring domestic shipbuilding and seafaring capacity and in a national commercial policy of ensuring a strong domestic maritime industry. As stated in 46 U.S.C. § 50101(a), "It is necessary for the national defense and the development of the domestic and foreign commerce of the United States that the United States have a merchant marine." As a Pilot Association dedicated solely to protect and preserve the Lower Mississippi River, we are proud to say the Jones Act has worked as intended.

The Jones Act is clear in its mandate: it explicitly prohibits foreign vessels from "providing any part of the transportation of merchandise by water, or by land and water, between points in the United States to which the coastwise laws apply" (46 U.S.C. § 55102). Thus, the transportation of "merchandise" between coastwise points must be completed on U.S. built and U.S. crewed vessels. Additionally, it is worth noting, the Jones Act does not contain any provision that allows Customs and Border Protection ("CBP") to modify its provisions through executive action. Indeed, Congress has recognized the broad coverage of the Jones Act by enacting explicit statutory exceptions for certain merchandise, as well as a substantively and procedurally restrictive waiver provision.

However, the letter rulings covered by the 2017 Notice have allowed foreign vessels to carry merchandise between two points in the United States, directly contrary to the Jones Act. Thus, these letter rulings should be revoked as proposed in the 2017 Notice.

Moreover, The Federal Pilots of Louisiana urges that this revocation take place in an expedited fashion. The letter rulings were originally issued by CBP without any consideration of the economic harm they would cause to the domestic maritime community. They have resulted in decades of delayed shipbuilding in U.S. shipyards and lost employment of U.S. mariners. As such, the consideration and comment that opponents of revocation have received under the current process, far exceeds absolute lack of due process provided when these letter rulings were issued. Thus, we believe the current process to be more than fair. It is also worth noting that the notice, comment, consideration, final notice process being utilized for the 2017 Notice is being conducted after CBP has considered this issue for eight years. The Federal Pilots of Louisiana feels that this is a sufficient amount of time for CBP to have thoughtfully considered the legality of their proposed revocations, the process being utilized for revocation, and the impact of the 2017 Notice.

Even more important than the fact that the 2017 Notice is utilizing a process which allows for thoughtful and informed consideration, is the fact that the process being utilized for the 2017 Notice is the legally designated process for revocation of letter rulings. Congress has mandated by statute a unique process for CPB's revocation of a letter ruling. Under 19 U.S.C. § 1625(c), CBP must give notice in the *Customs Bulletin* of its intent to revoke and provide at least 30 days opportunity for comment by the public. Subsequently, CBP must publish its final decision within 30 days of the close of the comment period. This final ruling or decision "shall" become effective 60 days after the date of its publication.

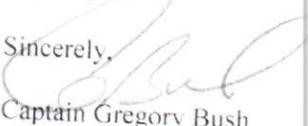
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Considering the above information, CBP's 2017 Notice ensures that the law is followed as written, will promote the employment of U.S. mariners as intended by the Jones Act, was completed after thoughtful consideration and provides ample amount for comments from all impacted parties, and was conducted under the legally prescribed process. As such, the Federal Pilots of Louisiana strongly supports the 2017 Notice and urges CBP to implement this notice in an expedited manner.

We thank you for your thoughtful consideration of this request and stand ready to answer any questions you may have.

Sincerely,


Captain Gregory Bush

President-Associated Federal Pilots and Docking Master of Louisiana, LLC



April 10, 2017

Mr. Kevin K. McAleenan
Acting Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Ave, NW
Washington, D. C. 20229

Re: Proposed Modification and Revocation of Ruling Letters Related to Customs Application of the Jones Act to the Transportation of Certain Merchandise and Equipment between Coastwise Points

Dear Mr. McAleenan:

The Alabama State Port Authority respectfully requests U.S. Customs & Border Protection (CBP) terminate action on the Proposed Modification and Revocation of Ruling Letters Related to Customs Application of the Jones Act to the Transportation of Certain Merchandise and Equipment between Coastwise Points [51 Cust. B. & Dec. 1 (Jan. 18, 2017)] ("Notice") as a result of Executive Order 13783 ("EO"), Promoting Energy Independence and Economic Growth, issued on March 31, 2017.

The Alabama State Port Authority owns and operates the public terminals in the 10th largest U.S. seaport by total trade. The Port of Mobile is vital transportation infrastructure for offshore oil and gas production, service and manufacturing companies engaged in both the manufacture and transportation of offshore energy exploration and development "equipment." In Alabama alone, these companies represent hundreds of millions in capital investment and employ thousands in the Central Gulf regional area.

The deep-water offshore oil and gas manufacturing and service companies in our port rely on highly specialized vessels to support subsea installations and offshore production units. Proponents of CBP's action would have regulators believe that there is adequate U.S. flagged fleet to meet the demands of deep-water markets. The reality is there are approximately 8,500 offshore support vessels globally qualified to provide service in deep-water markets. Of this 8,500 vessels, only 528 vessels can serve the light construction, pipe layer, heavy lift, well intervention and seismic survey/geophysical work demands in depths of 3,280 ft./1,000 meters or greater. Of those 528 vessels, only 33 vessels are approved for coastwise service. In the U.S. Gulf of Mexico market, only 30 vessels out of the total global deep-water fleet are active, and only five of those vessels are approved for coastwise service.

CBP's Notice, if implemented, would revoke and/or modify 26 specified rulings on which the offshore industry has relied for four decades and invested billions of dollars conduct oil and natural gas operations. The impacts of the Notice cannot be overstated.

Clarkson Research Services 2016 Worldwide OSV Database dated November 2016

First, and despite the recent downturn in US Gulf of Mexico oil and gas production, the market is rebounding. A respected industry analyst firm, Douglas-Westwood, forecasts deep-water expenditures have surged since 2016 and will increase 130% through 2018 totaling approximately \$260 billion. There is significant interest and investment in U.S. Gulf of Mexico deep-water production, primarily driven by production declines in the nation's mature onshore and shallow water basins. It will be imperative that sufficient equipment be available to service U.S. energy production.

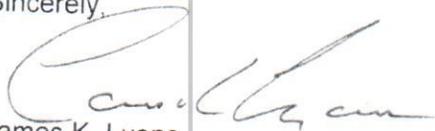
Secondly, the Notice will adversely affect safe operation of vessels assisting in U.S. energy production. The EO calls for "safe development of the Nation's vast energy resources." Currently, there are few Jones Act vessels available to safely perform the same operations, as our customers' vessels should the notice take effect – in some cases, there are no Jones Act vessels to serve active projects. Specifically, Jones Act vessels, while playing a critical role in many aspects of operations, simply do not have all of the capabilities that are essential to safe operations. Operational safety is the highest priority in the industry, particularly in the aftermath of the Macondo/Deepwater Horizon disaster.

Lastly, it is important to consider the impacts to U.S. jobs, production and government revenue losses if the Notice were implemented. An estimated 30,000 jobs in 2017 alone would be lost and a projected 80,000 jobs lost by 2030². This same report estimate that oil and gas production will decline by 0.5 Million Barrels per day from 2017 to 2030. This loss equates to more than \$4.3 Billion of Gross Domestic Product from 2017-2030 and more than \$1.9 Billion in U.S. Government revenue over the same period³.

The Alabama State Port Authority respectfully urges your immediate review of the proposal and its potential economic consequences and requests Customs and Border Protection terminate action on this Notice.

Please do not hesitate to contact me for additional information, if needed. Thank you for your attention on this critical matter.

Sincerely,



James K. Lyons
Director and CEO

C: The Honorable Richard Shelby, U.S. Senate
The Honorable Luther Strange, U.S. Senate
The Honorable Bradley Byrne, U.S. House of Representatives

² *Economic Impacts of Proposed Modification and Revocation of Jones Act Ruling Letters Related to Offshore Oil and Natural Gas Activities.* CALASH Americas, 2017.

³ *Economic Impacts of Proposed Modification and Revocation of Jones Act Ruling Letters Related to Offshore Oil and Natural Gas Activities.* CALASH Americas, 2017.