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Glen D. 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 withdrawal of the proposal

Via email: CBPPublicationsResponse@cbp.dhs.gov

To whom it may concern:

On January 18, 2017, only two days before the end of the previous presidential administration, the U.S. Customs and Border Protection (CBP) published a 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. This proposal, which could have serious and widespread impacts on a variety of industries and the entire U.S. economy, comes nearly eight years after the same administration attempted a similar proposal that was ultimately rejected in response to industry concerns. The purpose of this letter is to request a withdrawal of this new proposal and, in the absence of the withdrawal of the proposal, an extension of the comment period. If the proposal is not immediately withdrawn, we request that the comment period be extended by at least 120 days, until June 19, 2017.

The API is a national trade association that represents over 625 members involved in all aspects of the oil and natural gas industry, including exploring for and developing oil and natural gas resources in the OCS, a vital part of our nation's economy. The oil and natural gas industry supports 9.8 million U.S. jobs and 8 percent of the U.S. economy.

Withdrawal of this proposal is clearly warranted and intended with the new administration's vital and explicitly stated need to evaluate ongoing regulatory actions issued at the end of the previous administration, especially actions like this one that could have significant effects on the

economy. Assistant to the President and Chief of Staff, Reince Priebus issued a memorandum to the heads of executive departments and agencies on January 20, 2017, outlining actions in order to ensure that the President's appointees or designees have the opportunity to review any new or pending regulations, regulatory action or guidance. The need to halt this proposal in particular is especially important given the broad policy implications as well as unique procedures and timing for CBP ruling revocations set out in the Code of Federal Regulations. Specifically, and unlike the Notice and Comment Procedures for regulations processed through the Office of the Federal Register, 19 C.F.R. 177.12(b) sets a 30-day timeframe by which CPB is expected to publish its final decision on a proposed ruling revocation after a 30 day written comment period. To avoid an unnecessarily fast regulatory process for this proposal without review by the new administration, and consistent with the requirements of the January 20 memorandum, it is necessary to withdraw this notice until the President's appointees or designees have the opportunity to review this proposed action. Adequate time for the new administration to review and respond to this notice is imperative.

The content of the notice is also lacking in sufficient detail to explain to the regulated community or the new administration what the effects of the revocation would be or the reason why a revocation is necessary. What the notice does indicate, however, is that it would have wide-ranging effects on nearly 40 years of CBP rulings. The proposal would not only revoke rulings from 1976 onward, it also "covers any rulings raising the subject issues which may exist but have not been specifically identified." Further, "CBP invites any member of the public who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision, or protest review decision) subject to this notice that has not been identified to advise CBP during this comment period." Thirty days is an inadequate amount of time for the public or the new administration to identify the potentially affected rulings and provide comment. It is also unclear, based on the content of the notice, whether CBP itself is aware of the potential consequences of revocation and modifications of these rulings. The one thing that the notice does clearly show is that it would have a vast impact, which necessitates careful consideration and interagency review by the new administration and, should this or a similar proposal move forward, adequate time for the public to respond, including thoughtful consideration of each affected and potentially affected ruling.

For the reasons stated above, withdrawal of the notice is necessary and fully consistent with the administration's regulatory policy. Absent a withdrawal, an extension of the public comment period for this notice by at least 120 days, until June 19, 2017, is necessary so that the public may provide well thought-out responses to serve the government's interest in receiving comments that will identify issues and offer recommendations to ensure well-informed decisions.

API appreciates your consideration of this request and respectfully requests a response as soon as possible considering the exceptionally short comment period that is currently pending. If you have any questions, please contact me by phone at (202)682-8273, or by e-mail at militoe@api.org.

Sincerely,



cc: Reince Priebus, Assistant to the President and Chief of Staff
Stephen Miller, Senior Advisor to the President
Mark Sandy, Acting OMB Director
Dominic Mancini, Acting OIRA Administrator
Stuart Leavenbach, Policy Analyst, OMB
Christa Brzozowski, Deputy Assistant Secretary Trade and Transport Policy, DHS