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April 3, 2017

Kevin K. McAleenan
Commissioner (Acting)
U.S. Customs and Border Protection
1300 Pennsylvania Ave., NW
Washington, DC 20229

Re: "Proposed Modification and Revocation of Ruling Letters Relating to Customs Application of the Jones Act to the Transportation of Certain Merchandise and Equipment Between Coastwise Points," 51 *Customs Bulletin* 3 at 1 (Jan. 18, 2017)

Dear Acting Commissioner McAleenan:

With this letter, the American Petroleum Institute (API) is providing you with the enclosed report entitled "Economic Impacts of Proposed Modification and Revocation of Jones Act Ruling Letters Related to Offshore Oil and Natural Gas Activities." API commissioned this independent evaluation of the potential impacts on offshore oil and natural gas project development and spending associated with U.S. Customs and Border Protection's (CBP) proposed modification and revocation of Jones Act ruling letters, published in the *Customs Bulletin* on January 18, 2017.

API intends to submit this report with a forthcoming joint trade coalition letter providing detailed comments on CBP's January 18 proposal. We are providing you with the report now, however, in light of the President's March 28, 2017 Executive Order entitled "Promoting Energy Independence and Economic Growth" (the Energy Independence Order). The Energy Independence Order states that "[i]t is in the national interest to . . . avoid[] regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation." The Energy Independence Order further states that the policy of the United States includes suspension, revision, or rescission of regulatory actions "that unduly burden the development of domestic energy resources."

CBP must withdraw the January 18 proposal in order to comply with the Energy Independence Order. The enclosed report demonstrates that the proposal would directly contradict the Energy Independence Order, finding that the following effects may result if the proposal is implemented:

- Delays in projects currently under development but not installed due to an inability to utilize foreign flagged vessels.
- Decreased development activity due to increased costs and risk profiles of offshore oil and natural gas projects.
- Decreased U.S. domestic content due to offshoring of certain parts of the supply chain such as reeling of pipe, manufacturing of umbilicals and some subsea equipment and fabrication of topsides and modules.
- Between 2017 and 2030, decreased Gulf of Mexico offshore oil and natural gas spending in the range of $5.4 billion on average per year.
- An average reduction in oil and natural gas production in the range of 0.5 Million Barrels per day from 2017 to 2030.
- A loss of up to 30 thousand jobs in 2017 and average decreased employment of over 80 thousand jobs from 2017 to 2030.
- An average loss of more than $4.3 billion of GDP from 2017 to 2030.
- An average loss of more than $1.9 billion of government revenue per year from 2017 to 2030.

CBP must not proceed with an action that is inconsistent with the policy of the United States as stated in the Energy Independence Order.

The potential for significant negative economic impacts is only one of the reasons why CBP must withdraw its January 18 proposal. Of critical importance, the proposal would negatively affect safety in offshore oil and natural gas activities. Furthermore, in issuing the proposal, CBP has failed to comply with several other legal and administrative requirements, including but not limited to the Administrative Procedure Act; long-standing Executive Orders 12866 (“Regulatory Planning and Review”), 13563 (“Improving Regulation and Regulatory Review”), and 13211 (“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use”); and the current administration’s Executive Order 13771, which requires, among other things, that for every new regulation issued (including all agency statements of general applicability), at least two prior regulations must be identified for elimination. All of these issues, individually and cumulatively, require withdrawal of CBP’s proposal.

The joint trade coalition intends to provide a detailed explanation of these concerns in its forthcoming comment letter, but we are providing this information for your immediate consideration to ensure that you are aware of the direct conflict between the January 18 proposal and the new Energy Independence Order. If you have any questions, please contact me at militoe@api.org or 202-682-8273.

Sincerely,

cc: Reince Priebus, Assistant to the President and Chief of Staff
Mick Mulvaney, Director OMB
Stephen Miller, Senior Advisor to the President
Andrew Bremberg, Assistant to the President for Domestic Policy
Peter Navarro, Director, National Trade Council
Mike Catanzaro, Special Assistant to the President for Domestic Energy & Environmental Policy
Dominic J. Mancini, OIRA
Christa Brzozowski, Deputy Assistant Secretary, Trade and Transport Policy, DHS
Sean Moon, Director, Transportation & Cargo, Transborder Policy , DHS
Brenda Smith, Executive Assistant Commissioner, Office of International Trade, CBP
Lisa Burley, Chief, Cargo Security, Carriers & Restricted Merchandise Branch, CBP
Glen Vereb, Director, Border Security & Trade Compliance Division, CBP

Enclosure