

US Withdraws Plans To Tighten Jones Act Coastal Shipping Rules

Jason P. Minkin and Nicole M. Gallagher of the Chicago-based firm of BatesCarey LLP write:-

Under the Jones Act, vessels carrying cargo between US ports must be US built, US owned, and staffed by US crews. Vessels that are built, owned, or staffed by foreigners may operate in intra-US waters so long as they are not carrying merchandise or passengers. The United States Customs and Border Protection (CBP) rules outline various scenarios where the carrying of equipment that is used in offshore operations (e.g., offshore hydrocarbon and wind projects, etc.) would not be classified as "merchandise."

On January 18, 2017, the CBP announced a plan to revoke its rules permitting non-US flagged offshore vessels to carry out these specialized services in specific circumstances for US offshore energy projects.

When the CBP solicited industry comments on its January 18, 2017 proposal to end the exemptions for foreign vessels, it received a negative response from overseas government bodies, the international shipping industry, and US energy companies who rely on services that would have been eliminated by the proposed revocation.

The proposal to revoke the rulings to the Jones Act was formally withdrawn by the CBP on May 10, 2017. In its Customs Bulletin Weekly, the CBP wrote:

"Based on the many substantive comments CBP received, both supporting and opposing the proposed action, and CBP's further research on the issue, we conclude that the Agency's notice of proposed modification and revocation of the various ruling letters relating to the Jones Act should be reconsidered. Accordingly, CBP is withdrawing its proposed action relating to the modification of HQ 101925 and revision of rulings determining certain articles are vessel equipment under T.D. 49815(4), as set forth in the January 18, 2017 notice."

While the proposed revocation of the various rules under the Jones Act are still subject to reconsideration by the CBP, thus far the decision to withdraw the plan has been well received by many who would have been impacted by its regulation on intra-coastal shipping.