

117TH CONGRESS
2D SESSION

H. R. 9548

To require the Commissioner of U.S. Customs and Border Protection to make certain determinations in enforcing the Jones Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 14, 2022

Mr. GARAMENDI introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require the Commissioner of U.S. Customs and Border Protection to make certain determinations in enforcing the Jones Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Close Agency Loop-
5 holes to the Jones Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) In 1920, Congress enacted the Merchant
2 Marine Act (chapters 121 and 551 of title 46,
3 United States Code), commonly referred to as the
4 “Jones Act”.

5 (2) In 1953, Congress enacted the Outer Conti-
6 nental Shelf Lands Act (43 U.S.C. 1331 et seq.) ap-
7 plying the Constitution, laws, and civil and political
8 jurisdiction of the United States to the outer Conti-
9 nental Shelf.

10 (3) In 2020, Congress enacted section 9503 of
11 the William M. (Mac) Thornberry National Defense
12 Authorization Act for Fiscal Year 2021 (Public Law
13 116–283) affirming that application of the Constitu-
14 tion, laws, and civil and political jurisdiction of the
15 United States to the outer Continental Shelf also ap-
16 plies to non-mineral energy resources and exploring
17 for, developing, producing, transporting, or transmit-
18 ting such resources.

19 (4) Therefore, the Jones Act prohibits the use
20 of a non-Jones Act qualified vessel for the provision
21 of any coastwise transportation of merchandise to or
22 from a port of the United States (including terri-
23 tories or possessions to which the coastwise laws
24 apply) to any point on the outer Continental Shelf,

1 or between any two points on the outer Continental
2 Shelf.

3 (5) U.S. Customs and Border Protection (here-
4 inafter referred to as “CBP”) is responsible for in-
5 terpreting and enforcing the Jones Act. CBP has
6 issued ruling letters and other interpretative guid-
7 ance to requesting parties that provide the descrip-
8 tion of proposed activities.

9 (6) Unlike most federal agencies, CBP is re-
10 quired by section 625(c) of the Tariff Act of 1930
11 (19 U.S.C. 1625(c)) to follow its past interpretive
12 guidance and treatments of “substantially identical
13 transactions,” unless it institutes a public notice and
14 comment process to modify or revoke that interpre-
15 tative guidance. As a result, CBP and market par-
16 ticipants treat as binding ruling letters and interpre-
17 tative guidance in addressing whether and how the
18 Jones Act applies in substantially identical factual
19 situations.

20 (7) Thus, CBP’s ruling letters—even if legally
21 incorrect—have substantial impacts: When CBP
22 purports to authorize a foreign vessel to transport
23 merchandise between coastwise points, unless or-
24 dered by a Federal court to rescind such ruling let-
25 ters, CBP does not take enforcement action against

1 other foreign vessels engaging in substantially iden-
2 tical transactions, and vessel operators accordingly
3 rely on CBP's past ruling letters and guidance
4 issued to other parties.

5 (8) Over several decades, CBP has purported to
6 create an array of exemptions from the prohibitions
7 of the Jones Act for the benefit of foreign vessels.

8 (9) On December 11, 2019, CBP published
9 Customs Bulletin and Decisions, Vol. 53, No. 45
10 (hereinafter referred to as the "2019 Decision") re-
11 voking a handful of its interpretations, recognizing
12 that the analyses employed therein were inconsistent
13 with the Jones Act and original congressional intent,
14 including by using statutory language "out of con-
15 text," having been superseded by amendments, or
16 being predicated on CBP-created distinctions that
17 had always been "irrelevant" under the Jones Act.

18 (10) However, the 2019 Decision still left in
19 force many ruling letters inconsistent with the Jones
20 Act and original congressional intent, espousing the
21 same unlawful doctrines, revoked others that prop-
22 erly interpreted the Jones Act, and created several
23 new loopholes that purport to immunize much of the
24 same foreign vessel activities that are now, and have
25 always been, prohibited under the Jones Act.

1 (11) Thus, CBP has created invalid exemptions
2 from the prohibition embodied in the Jones Act,
3 using a variety of new and old doctrines inconsistent
4 with original congressional intent. In 2014, the Su-
5 preme Court of the United States found in *Utility*
6 *Air Regulatory Group. v. Environmental Protection*
7 *Agency* (573 U.S. 302, 328) that it is a “core ad-
8 ministrative law principle that an agency may not
9 rewrite clear statutory terms to suit its own sense of
10 how the statute should operate”.

11 (12) These invalid, *ultra vires* doctrines, and
12 their uses, include—

13 (A) an unlawfully broad interpretation of
14 “vessel equipment” which conflicts with Con-
15 gress’ statutory description of “merchandise,”
16 and the explicit, limited statutory exemption;

17 (B) the “paid out not unladen” doctrine,
18 which provides that pipe or cable laying oper-
19 ations are not coastwise trade subject to the
20 Jones Act—even when the pipe is laid between
21 two coastwise points, and in spite of Congress’
22 statutory prohibition against foreign vessels
23 performing “any part of the transportation by
24 water” of merchandise;

1 (C) the “paid out not unladen” doctrine is
2 also used by foreign vessel operators to justify
3 the transportation of merchandise attached to
4 the paid out pipe or cable;

5 (D) the “lifting operations” exemption,
6 which purports to permit self-propelled move-
7 ments by a vessel when using a crane or like
8 equipment to install or remove merchandise on
9 or from offshore facilities or subsea infrastruc-
10 ture;

11 (E) the “decommissioning activity” exemp-
12 tion, which purports that merchandise trans-
13 ported as a result of decommissioning—i.e., the
14 restoration of the sea-floor and the water sur-
15 face by plugging and abandoning the well and
16 removing the installation and facility—is not
17 subject to the Jones Act;

18 (F) the “offshore research vessel”
19 misapplications, which improperly extends the
20 exclusion for oceanographic or limnological re-
21 search vessels to commercial research activities
22 that directly support the exploration for, or de-
23 velopment, production, transportation, or trans-
24 mission of, resources, on the outer Continental
25 Shelf; and

1 (G) the “pristine seabed” exemption,
2 where CBP has purported to hold that Outer
3 Continental Shelf Lands Act’s explicit applica-
4 tion to the “subsoil and seabed” of the outer
5 Continental Shelf does not include the “pristine
6 seabed”.

7 (13) If a ruling letter is contrary to the stat-
8 ute’s plain text and the expressed intent of Con-
9 gress, or found unpersuasive by a Federal court, it
10 will be invalidated as arbitrary and capricious.

11 (14) Federal courts have not squarely ad-
12 dressed the interpretations contained in these CBP
13 ruling letters and other guidance, and thus have
14 never upheld these interpretations as valid and au-
15 thoritative.

16 **SEC. 3. PRECLUDING EXEMPTIONS FROM JONES ACT RE-**
17 **QUIREMENTS FOR CERTAIN FOREIGN VES-**
18 **SELS.**

19 The Secretary may not provide any exemption from
20 the requirements of chapters 121 and 551 of title 46,
21 United States Code (commonly referred to as the “Jones
22 Act”), to the owner of a foreign vessel engaging in com-
23 mercial transportation services to directly support the ex-
24 ploration for, or development, production, transportation,
25 or transmission of, resources, including non-mineral en-

1 ergy resources, from a planning or leasing area designated
2 by the Secretary of the Interior under the Outer Conti-
3 nental Shelf Lands Act (43 U.S.C. 1331 et seq.).

4 **SEC. 4. OCEANOGRAPHIC RESEARCH VESSELS.**

5 (a) IN GENERAL.—In enforcing chapter 551 of title
6 46, United States Code, the Secretary may not determine
7 that a vessel engaging in commercial research activities
8 to directly support the exploration for, or development,
9 production, transportation, or transmission of, resources,
10 including non-mineral energy resources, from a planning
11 or leasing area designated by the Secretary of the Interior
12 under the Outer Continental Shelf Lands Act (43 U.S.C.
13 1331 et seq.) is not engaged in trade or commerce under
14 such chapter.

15 (b) OCEANOGRAPHIC RESEARCH VESSEL CLARIFICA-
16 TION.—Section 50503 of title 46, United States Code is
17 amended by inserting “, except that any vessel engaging
18 in commercial research activities to directly support the
19 exploration for, or development, production, transpor-
20 tation, or transmission of, resources, including non-min-
21 eral energy resources, from a planning or leasing area des-
22 ignated by the Secretary of the Interior under the Outer
23 Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) may
24 be determined to be engaged in trade or commerce under
25 this section” after “trade or commerce”.

1 (c) DESIGNATION.—The Commandant of the Coast
2 Guard shall deny any request from a foreign vessel to be
3 designated as an oceanographic research vessel for any
4 such vessel engaging in commercial research activities to
5 directly support the exploration for, or development, pro-
6 duction, transportation, or transmission of, resources, in-
7 cluding non-mineral energy resources, from a planning or
8 leasing area designated by the Secretary of the Interior
9 under the Outer Continental Shelf Lands Act (43 U.S.C.
10 1331 et seq.).

11 (d) REVOCATION OR MODIFICATION OF CERTAIN
12 RULING LETTERS.—

13 (1) IN GENERAL.—The Secretary shall revoke
14 or modify, as appropriate, the following head-
15 quarters ruling letters:

16 (A) HQ H216579 (May 15, 2012).

17 (B) HQ H205655 (March 20, 2012).

18 (C) HQ 112830 (August 12, 1993).

19 (D) HQ 110364 (September 29, 1989).

20 (2) SUBSTANTIALLY IDENTICAL
21 TRANSACTIONS.—The Secretary shall revoke or mod-
22 ify, as appropriate, any treatments, including ruling
23 letters, accorded by the Secretary to transactions
24 that are substantially identical to the transactions

1 described in the ruling letters listed in paragraph
2 (1).

3 **SEC. 5. U.S. CUSTOMS AND BORDER PROTECTION RULINGS.**

4 (a) VESSEL EQUIPMENT.—

5 (1) IN GENERAL.—In enforcing chapter 551 of
6 title 46, United States Code, the Secretary may not
7 apply an interpretation of the terms “vessel equip-
8 ment” or “equipment” that conflicts with the defini-
9 tion of the term “merchandise” or sections 55105,
10 55106, 55107, 55108, 55110, 55113, and 55115 of
11 such title.

12 (2) REVOCATION OR MODIFICATION OF CER-
13 TAIN RULING LETTERS.—

14 (A) IN GENERAL.—The Secretary shall re-
15 voke or modify, as appropriate, any ruling let-
16 ters that apply an incorrect interpretation of
17 the terms “vessel equipment” or “equipment”
18 as described in paragraph (1), including the fol-
19 lowing headquarters ruling letters:

20 (i) HQ H032757 (July 28, 2008).

21 (ii) HQ H029417 (June 5, 2008).

22 (iii) HQ H004242 (December 22,
23 2006).

24 (iv) HQ 116078 (February 11, 2004).

25 (v) HQ 115938 (April 1, 2003).

- 1 (vi) HQ 115771 (August 19, 2002).
2 (vii) HQ 115333 (April 27, 2001).
3 (viii) HQ 115487 (November 20,
4 2001).
5 (ix) HQ 115381 (June 15, 2001).
6 (x) HQ 114435 (August 6, 1998).
7 (xi) HQ 114305 (March 31, 1998).
8 (xii) HQ 113841 (February 28,
9 1997).
10 (xiii) HQ 113137 (June 27, 1994).
11 (xiv) HQ 112218 (July 22, 1992).
12 (xv) HQ 111889 (February 11,
13 1992).
14 (xvi) HQ 111892 (September 16,
15 1991).
16 (xvii) HQ 110402 (August 18, 1989).
17 (xviii) HQ 108223 (March 13, 1986).
18 (xix) HQ 105644 (June 7, 1982).
19 (xx) HQ 101925 (October 7, 1976).

20 (B) SUBSTANTIALLY IDENTICAL TRANS-
21 ACTIONS.—The Secretary shall revoke or mod-
22 ify, as appropriate, any treatments, including
23 ruling letters, accorded by the Secretary to
24 transactions that are substantially identical to

1 the transactions described in the ruling letters
2 listed in subparagraph (A).

3 (b) PAID OUT NOT UNLADEN.—

4 (1) IN GENERAL.—In enforcing chapter 551 of
5 title 46, United States Code, the Secretary may not
6 determine that pipe or cable laying operations, in-
7 cluding the transportation of merchandise attached
8 to such pipe or cable, are not subject to such chap-
9 ter because the vessel pays out the pipe or cable to
10 a coastwise point.

11 (2) REVOCATION OR MODIFICATION OF CER-
12 TAIN RULING LETTERS.—

13 (A) IN GENERAL.—The Secretary shall re-
14 voke or modify, as appropriate, any ruling let-
15 ters that apply an incorrect determination with
16 respect to pipe or cable laying operations de-
17 scribed in paragraph (1), including the fol-
18 lowing headquarters ruling letters:

- 19 (i) HQ 115522 (December 3, 2001).
- 20 (ii) HQ 115487 (November 20, 2001).
- 21 (iii) HQ 115311 (May 10, 2001).
- 22 (iv) HQ 115333 (April 27, 2001).
- 23 (v) HQ 114435 (August 6, 1998).
- 24 (vi) HQ 114305 (March 31, 1998).
- 25 (vii) HQ 105644 (June 7, 1982).

1 (viii) HQ 101925 (October 7, 1976)
2 (also referred to as T.D. 78–387).

3 (B) SUBSTANTIALLY IDENTICAL TRANS-
4 ACTIONS.—The Secretary shall revoke or mod-
5 ify, as appropriate, any treatments, including
6 ruling letters, accorded by the Secretary to
7 transactions that are substantially identical to
8 the transactions described in the ruling letters
9 listed in subparagraph (A).

10 (c) LIFTING OPERATIONS.—

11 (1) IN GENERAL.—In enforcing chapter 551 of
12 title 46, United States Code, the Secretary may not
13 exempt lifting operations from the requirements of
14 such chapter.

15 (2) REVOCATION OR MODIFICATION OF CER-
16 TAIN AGENCY ACTIONS.—The Secretary shall—

17 (A) revoke or modify, as appropriate, any
18 ruling letters that apply the exemption de-
19 scribed in paragraph (1);

20 (B) modify the Customs Bulletin and Deci-
21 sion issued on December 11, 2019, titled
22 “Modification and revocation of ruling letters
23 relating to CBP’s application of the Jones Act
24 to the transportation of certain merchandise
25 and equipment between coastwise points” (Cus-

toms Bulletin and Decisions, Vol. 53, No. 45)

to be consistent with paragraph (1); and

(C) revoke or modify, as appropriate, any other treatments, including ruling letters, accorded by the Secretary to transactions that are substantially identical to the transactions described in this paragraph.

(3) REINSTATEMENT OF CERTAIN RULING LETTERS.—Upon revoking and modifying the agency actions under paragraph (2), the Secretary shall reinstate the following headquarters ruling letters (popularly known as the “Koff rulings”):

(A) HQ H242466 (July 3, 2013).

(B) HQ H235242 (November 15, 2012).

(C) HQ H225102 (September 24, 2012).

(d) INSTALLATION ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall revoke the following headquarters ruling letters in which the Secretary determined that certain installation activities do not involve transportation of merchandise between points in the United States for purposes of section 55102 of title 46, United States Code:

(A) HQ 115185 (November 20, 2000).

(B) HQ 115218 (November 30, 2000).

1 (C) HQ 113838 (February 25, 1997).

2 (D) HQ 108442 (August 13, 1986).

3 (2) SIMILAR RULING LETTERS.—The Secretary
4 shall revoke or modify, as appropriate, any treat-
5 ments, including ruling letters, accorded by the Sec-
6 retary to transactions that are substantially identical
7 to the transactions described in the ruling letters de-
8 scribed in paragraph (1).

9 (e) DECOMMISSIONING.—

10 (1) IN GENERAL.—In enforcing chapter 551 of
11 title 46, United States Code, the Secretary may not
12 exempt merchandise transported as a result of de-
13 commissioning an installation or facility on the outer
14 Continental Shelf from the requirements of such
15 chapter.

16 (2) REVOCATION OR MODIFICATION OF CER-
17 TAIN RULING LETTERS.—The Secretary shall revoke
18 or modify, as appropriate—

19 (A) any ruling letters that apply the ex-
20 emption described in paragraph (1), including
21 the headquarters ruling letter HQ H004242
22 (December 22, 2006); and

23 (B) any treatments, including ruling let-
24 ters, accorded by the Secretary to transactions
25 that are substantially identical to the trans-

1 actions described in the ruling letter described
2 in subparagraph (A).

3 (f) SUBSOIL OR SEABED SAMPLES.—

4 (1) IN GENERAL.—In enforcing chapter 551 of
5 title 46, United States Code, the Secretary may not
6 determine that—

7 (A) subsoil or seabed samples are not mer-
8 chandise for purposes of section 55102 of title
9 46, United States Code; or

10 (B) taking subsoil or seabed samples from
11 the seabed is not considered an installation or
12 other device for purposes of section 4(a)(1) of
13 the Outer Continental Shelf Lands Act (43
14 U.S.C. 1333(a)(1)).

15 (2) REVOCATION OR MODIFICATION OF CER-
16 TAIN RULING LETTERS.—

17 (A) IN GENERAL.—The Secretary shall re-
18 voke or modify, as appropriate, any ruling let-
19 ters that apply an incorrect determination de-
20 scribed in paragraph (1), including the fol-
21 lowing headquarters ruling letters:

22 (i) HQ H317289 (March 25, 2021).

23 (ii) HQ 115799 (September 30,
24 2002).

25 (iii) HQ 116602 (January 30, 2006).

1 (iv) HQ 108442 (August 13, 1986).

2 (B) SUBSTANTIALLY IDENTICAL TRANS-
3 ACTIONS.—The Secretary shall revoke or mod-
4 ify, as appropriate, any treatments, including
5 ruling letters, accorded by the Secretary to
6 transactions that are substantially identical to
7 the transactions described in the ruling letters
8 listed in subparagraph (A).

9 (g) PRISTINE SEABED.—

10 (1) IN GENERAL.—In enforcing chapter 551 of
11 title 46, United States Code, the Secretary may not
12 determine that such chapter does not apply to—

13 (A) the pristine seabed of the outer Conti-
14 nental Shelf; or

15 (B) articles or devices, including seismic
16 nodes or rock, aggregate, or other scour protec-
17 tion materials, either temporarily or perma-
18 nently placed onto or embedded into the seabed
19 on the outer Continental Shelf.

20 (2) ATTACHED ARTICLES.—In enforcing chap-
21 ter 551 of title 46, United States Code, the Sec-
22 retary shall determine that any articles or devices
23 described in paragraph (1)(B) that are attached to
24 the seabed are merchandise for the purposes of sec-
25 tion 55102 of such title.

1 (3) REVOCATION OF CERTAIN RULING LET-
 2 TERS.—The Secretary shall revoke or modify, as ap-
 3 propriate, any ruling letters that apply an incorrect
 4 determination described in paragraph (1), including
 5 the following headquarters ruling letters:

6 (A) HQ H317289 (March 25, 2021).

7 (B) HQ 115799 (September 30, 2002).

8 (4) REINSTATEMENT OF RULING LETTER.—
 9 Upon revoking and modifying the agency actions
 10 under paragraph (3), the Secretary shall reinstate
 11 headquarters ruling letter HQ H309186 (January
 12 27, 2021).

13 **SEC. 6. PETITIONS BY DOMESTIC INTERESTED PARTIES.**

14 (a) IN GENERAL.—Chapter 551 of title 46, United
 15 States Code, is amended by adding at the end the fol-
 16 lowing:

17 **“§ 55124. Petitions by domestic interested parties**

18 “(a) REQUEST FOR INTERPRETIVE RULING.—The
 19 Secretary of Homeland Security shall, upon written re-
 20 quest by an interested party, furnish, within 60 days, an
 21 interpretive ruling regarding a non-coastwise qualified ves-
 22 sel’s activities and compliance with Federal laws in the
 23 internal waters of the United States, the territorial sea,
 24 and the waters of the outer Continental Shelf, including
 25 the vessel’s compliance with this chapter and section

1 50503. If the interested party believes that the conclusion
2 of such interpretive ruling, or any other interpretive ruling
3 regarding the interpretation, application, or enforcement
4 of the coastwise laws, is incorrect, such party may file a
5 petition with the Secretary setting forth the following:

6 “(1) Such party’s understanding of the factual
7 scenario.

8 “(2) The outcome of the decision that such
9 party believes to be proper in the provided factual
10 scenario and the reasons supporting such party’s be-
11 lief.

12 “(b) DETERMINATION ON PETITION.—If, after re-
13 ceipt and consideration of a petition filed by such an inter-
14 ested party, the Secretary determines that the conclusion
15 reached in the contested letter is not correct, the Secretary
16 shall determine the proper outcome and notify the peti-
17 tioner of the Secretary’s determination within 60 days.

18 “(c) CONTEST BY PETITIONER.—If the Secretary de-
19 termines that the contested interpretive ruling filed pursu-
20 ant to subsection (a) is correct, the Secretary shall notify
21 the petitioner within 30 days. If dissatisfied with the de-
22 termination of the Secretary, the petitioner may file with
23 the Secretary, not later than 30 days after the date of
24 the notification, notice that it desires to contest the ruling.
25 Upon receipt of notice from the petitioner, the Secretary

1 shall cause publication to be made within 7 days of the
2 Secretary's determination as presented in the ruling letter.

3 “(d) REVIEW OF INTERPRETIVE RULING.—Not later
4 than 90 days after the petitioner files the notice of a desire
5 to contest a ruling under subparagraph (c), any interested
6 party may commence an action in any district court of
7 the United States, subject to the venue requirements of
8 section 1391 of title 28, by filing concurrently a summons
9 and complaint, each with the content and in the form,
10 manner, and style prescribed by the rules of such court,
11 contesting any legal conclusions of the Secretary.

12 “(e) RULEMAKING.—Not later than 60 days after the
13 date of enactment of this section, the Secretary shall issue
14 such regulations as are necessary to implement this sec-
15 tion.

16 “(f) DEFINITIONS.—In this section:

17 “(1) COASTWISE QUALIFIED VESSEL.—The
18 term ‘coastwise qualified vessel’ has the meaning
19 given such term in section 55108(a).

20 “(2) INTERESTED PARTY.—The term ‘inter-
21 ested party’ means—

22 “(A) the owner or operator of a vessel en-
23 gaged in coastwise trade;

24 “(B) a manufacturer of coastwise qualified
25 vessels;

1 “(C) a certified union, recognized union, or
2 group of workers or mariners which is rep-
3 resentative of an industry engaged or employed
4 in—

5 “(i) the coastwise trade; or

6 “(ii) construction of coastwise quali-
7 fied vessels;

8 “(D) a trade or business association of
9 which the majority of members are—

10 “(i) owners or operators of vessels en-
11 gaged in coastwise trade;

12 “(ii) manufacturers of coastwise quali-
13 fied vessels; or

14 “(E) an association of which the majority
15 of members are persons described in para-
16 graphs (1) through (4).”.

17 (b) RULEMAKING.—Not later than 60 days after the
18 date of enactment of this Act, the Secretary shall issue
19 such regulations as are necessary to implement the
20 amendments made by subsection (a).

21 (c) CLERICAL AMENDMENT.—The analysis for chap-
22 ter 551 of title 46, United States Code, is amended by
23 adding at the end the following:

“55124. Petitions by domestic interested parties.”.

1 **SEC. 7. CONGRESSIONAL REVIEW ACT APPLICABILITY.**

2 (a) IN GENERAL.—Notwithstanding section
3 804(3)(A) of title 5, United States Code, for purposes of
4 the application of chapter 8 of such title to a covered rul-
5 ing letter, the term “rule” shall be read to include such
6 a covered ruling letter.

7 (b) DEFINITION.—In this subsection, the term “cov-
8 ered ruling letter” means a ruling letter issued after the
9 date of enactment of this Act.

10 **SEC. 8. NOTIFICATION.**

11 (a) ADVANCE NOTIFICATION REQUIRED.—Prior to
12 engaging in any activity or operations on the outer Conti-
13 nental Shelf, the operator of a foreign vessel used in such
14 activity or operations shall file with the Secretary a notifi-
15 cation describing all activities and operations to be per-
16 formed on the outer Continental Shelf and an identifica-
17 tion of applicable ruling letters issued by the Secretary
18 that have approved the use of a foreign vessel in a sub-
19 stantially similar activity or operation.

20 (b) PUBLICATION OF NOTICES.—

21 (1) PUBLICATION.—The Secretary shall publish
22 a notification under subsection (a) in the Customs
23 Bulletin and Decisions within 14 days of receipt of
24 such notification.

25 (2) CONFIDENTIAL INFORMATION.—The Sec-
26 retary shall redact any information exempt from dis-

1 closure under section 552 of title 5, United States
2 Code, in a notification published under paragraph
3 (1).

4 **SEC. 9. PUBLICATION OF FINES AND PENALTIES.**

5 (a) IN GENERAL.—Section 55102 of title 46, United
6 States Code, is amended by adding at the end the fol-
7 lowing:

8 “(d) PUBLICATION OF PENALTY.—

9 “(1) IN GENERAL.—Not later than 14 days
10 after the issuance of a pre-penalty notice or a pen-
11 alty, including a settlement, under subsection (c),
12 the Secretary of Homeland Security shall publish
13 such pre-penalty notice or a notification of such pen-
14 alty in the Customs Bulletin and Decisions to the
15 party impacted by the penalty.

16 “(2) CONTENTS.—A pre-penalty notice or pen-
17 alty notification published under paragraph (1) shall
18 include—

19 “(A) the name and the International Mari-
20 time Organization identification number of the
21 vessel that is the subject of the penalty;

22 “(B) the name of the owner of the vessel
23 that is the subject of the penalty;

24 “(C) the amount of the fine or value of
25 merchandise seized; and

1 “(D) a summary of the alleged misconduct
2 and justification for imposing a penalty.”.

3 (b) RULEMAKING.—Not later than 90 days after the
4 date of enactment of this Act, the Secretary shall issue
5 such regulations as are necessary to implement the
6 amendments made by subsection (a), including—

7 (1) regulations regarding the information to be
8 contained in a penalty notification under section
9 55102(d) of title 46, United States Code (as amend-
10 ed by such subsection); and

11 (2) any changes to existing regulations relating
12 to penalties issued by the Secretary.

13 **SEC. 10. RULES OF CONSTRUCTION.**

14 (a) OUTER CONTINENTAL SHELF LANDS ACT.—
15 Nothing in this Act may be construed to nullify or super-
16 sede any other provision of law relating to the outer Conti-
17 nental Shelf (as such term is defined in section 2 of the
18 Outer Continental Shelf Lands Act (43 U.S.C. 1331)).

19 (b) RULING LETTERS.—Nothing in this Act may be
20 construed as congressional validation of a ruling letter, in-
21 terpretative guidance, doctrine, or other action relating to
22 the enforcement of chapters 121 and 551 of title 46,
23 United States Code (commonly referred to as the “Jones
24 Act”) issued by the Secretary.

1 **SEC. 11. DEFINITIONS.**

2 In this Act:

3 (1) LIFTING OPERATIONS.—The term “lifting
4 operations” means self-propelled movements by a
5 vessel when using a crane, or other similar equip-
6 ment, to install or remove merchandise on or from
7 offshore facilities or subsea infrastructure.

8 (2) MERCHANDISE.—The term “merchandise”
9 has the meaning given such term in section
10 55102(a) of title 46, United States Code.

11 (3) OCEANOGRAPHIC RESEARCH VESSEL.—The
12 term “oceanographic research vessel” has the mean-
13 ing given such term in section 2101 of title 46,
14 United States Code.

15 (4) OUTER CONTINENTAL SHELF.—The term
16 “outer Continental Shelf” has the meaning given
17 such term in section 2 of the Outer Continental
18 Shelf Lands Act (43 U.S.C. 1331).

19 (5) RULING LETTER.—The term “ruling letter”
20 means any ruling letter or headquarters ruling letter
21 relating to the enforcement of chapters 121 and 551
22 of title 46, United States Code (commonly referred
23 to as the “Jones Act”), issued by the Commissioner
24 of U.S. Customs and Border Protection pursuant to
25 sections 502(a) or 625 of the Tariff Act of 1930 (19
26 U.S.C. 1502(a) and 1625).

1 (6) SECRETARY.—The term “Secretary” means
2 the Secretary of Homeland Security, acting through
3 the Commissioner of U.S. Customs and Border Pro-
4 tection.

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