◆ Metal Trades Department, AFL-CIO ◆
◆ International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers ◆
◆ United Association of Plumbers and Pipefitters ◆
◆ International Association of Machinists and Aerospace Workers ◆
◆ International Association of Heat and Frost Insulators and Allied Workers ◆
◆ United Steelworkers ◆
◆ United Auto Workers◆
◆ International Union of Operating Engineers ◆
◆ International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers ◆

March 9, 2010

Director Peter R. Orszag
Office of Management and Budget
Eisenhower Executive Office Building, 208
1650 Pennsylvania Avenue, NW
Washington, DC 20503

Dear Director Orszag:

The United States shipbuilding labor unions respectfully submit this letter based upon our understanding that the Office of Management and Budget (OMB) is considering whether its Office of Information and Regulatory Affairs (OIRA) should review a U.S. Customs and Border Protection (CBP) proposal regarding the application of the Jones Act to the transportation by water of cargo between U.S. ports and offshore drilling sites.

The Jones Act has been a bulwark of U.S. maritime law for almost a century. It requires that vessels transporting merchandise between two points in the United States (also known as engaging in coastwise trade) must be U.S.-built, U.S.-owned, U.S.-crewed, and U.S.-flagged. Such "Jones Act" vessels must receive a certificate of documentation with a coastwise endorsement from the U.S. Coast Guard. Jones Act vessels must operate under U.S. Coast Guard rules and regulations and afford the protections for their workers required by U.S. law, whereas foreign vessels do not.

In July of last year, CBP published a proposal to correct some of its previous letter rulings interpreting the application of the Jones Act to offshore energy supply activity. These prior letter rulings by CBP had begun to have the cumulative effect of undermining the Jones Act and congressional intent by creating a regulatory loophole whereby foreign vessels have been transporting a significant amount of cargo from U.S. ports to offshore oil and gas facilities. Due to negative reaction to CBP's proposal by the oil and gas industry, the agency has yet to finalize its modification of these letter rulings pending possible review of the proposal to do so by OIRA. Such review is unwarranted as both a legal and a practical matter, serving only to stall an outcome not favored by the oil and gas industry because it will limit the cheaper employment of foreign vessels and foreign workers in the domestic coastwise trade by that industry.

Procedural claims against CBP in this matter are legally unfounded, as are attempts that have been made to get the agency to enforce the law by utilizing newly created terms and concepts that have been introduced by the oil and gas industry in response to the proposal. Cost concerns raised over existing contracts with foreign vessels also appear suspect given the absence of specific examples and the temporary nature of such arrangements. Implications that the offshore

oil and gas industry might suddenly grind to a halt under CBP's proposal are a further ruse because there is an abundance of U.S. offshore service vessels currently available for work and sitting idle at U.S. docks. Even if that was not the case, the law provides for the use of foreign vessels when domestic capacity is insufficient.

Oil and gas will obviously continue to be extracted off the shores of the United States regardless of letter rulings by CBP, and the oil and gas industry can afford to hire American workers instead of foreign workers to assist them in that lucrative enterprise. The very purpose of our nation's coastwise laws is to ensure that such jobs go to Americans instead of foreigners and that higher safety and environmental standards are set for those who wish to profit from operating commercially in U.S. waters. The law aside, domestic preference should certainly resonate in the foreseeable job climate.

Beyond the jobs directly and immediately impacted by the operation of offshore service vessels, the CBP proposal would also create and sustain U.S. jobs in the industries that service U.S.-flag vessels and U.S. ports. Ultimately, the proposal would benefit the U.S. shipbuilding industry as well. Regardless of which specific industries are affected, the shipbuilding labor unions have always been stalwart supporters of the Jones Act and of any and all jobs for American workers in the U.S. maritime industry and coastwise trade.

The CBP proposal bears even further importance in the big-picture sense, though, because it could affect how U.S. law applies to offshore renewable energy projects in the future. The potential for significant new energy markets is definitely something that American companies are already considering. A show of support by the Administration for U.S. industries and workers in this instance would send a positive signal to those companies with an eye toward the possibilities of a future job market and energy industry that could become a major driver of the U.S. economy. This, of course, is precisely the type of forward thinking that the President has consistently encouraged and supported.

The shipbuilding labor unions strongly encourage OMB, the U.S. Department of Homeland Security (DHS), and CBP to move forward with this proposal without further delay. If you need any additional information, please let us know. Your attention to this matter is very much appreciated.

Sincerely,

Metal Trades Department, AFL-CIO
International Brotherhood of Boilermakers
United Association of Plumbers and Pipefitters
International Association of Machinists
International Association of Heat and
Frost Insulators and Allied Workers

United Steelworkers
United Auto Workers
International Union of Operating Engineers
International Association of Iron Workers

cc: Secretary Janet A. Napolitano, DHS
Administrator Cass R. Sunstein, OIRA