

The ongoing Iran conflict has triggered widespread global disruption, including immediate energy price spikes and potential food security threats due to fertilizer shortages.

The global transportation sector is witnessing the most significant impacts on global maritime transportation with attempts at blocking or disrupting the Strait of Hormuz, and potentially the Red Sea, endangering some of the most critical global trade routes. However, few observers would have anticipated the Iran conflict having an immediate impact on US domestic shipping and service to US ports some 7,000 to 8,000+ miles (11,000–13,000+ km) away, and yet it has.

On March 17, 2026, the Trump administration announced a temporary, limited waiver of the Jones Act to allow foreign-flagged vessels to transport a range of cargo between US ports for the next 60 days.¹ The waiver was granted by the US Department of Homeland Security (DHS) to allow foreign-flagged vessels to transport certain commodities between US ports. The short-term waiver of the Jones Act, which is tied to certain listed commodities and to transportation conducted “within the parameters” of the waiver itself, has been cast by the Trump administration as a way to ease the shipment of energy products vital to national security and prevent shortfalls that could disrupt military operations. As stated in a post on X (formerly Twitter) by White House Press Secretary Karoline Leavitt:

President Trump’s decision to issue a 60-day Jones Act waiver is just another step to mitigate the short-term disruptions to the oil market as the US military continues meeting the objectives of Operation Epic Fury. This action will allow vital resources like oil, natural gas, fertilizer and coal to flow freely to US ports for 60 days, and the administration remains committed to continuing to strengthen our critical supply chains.

The Trump administration’s announcement puts this little-known shipping law into focus. The Merchant Marine Act of 1920, commonly referred to as the Jones Act, restricts the transportation of merchandise between two coastwise points in the US to Jones Act-qualified vessels. A Jones Act vessel must be owned and operated by US citizens, built in the US, manned by US citizens and fly the US flag. In other words, it prohibits the vast majority of the global shipping fleet from transporting goods (or passengers) between any two ports or points in the US.

The Jones Act was enacted after World War I, and was intended to bolster US merchant shipping, as well as to ensure that there was sufficient US sealift capacity available in times of conflict or national emergency. As a protectionist statute, the Jones Act is strictly construed. Jones Act violations may result in significant penalties, which include monetary fines and cargo forfeiture. There is a limited mechanism that allows the Jones Act to be waived.

Section 501 Jones Act Waivers

Although rarely granted, the Jones Act may be waived for a limited duration through administrative action in the interest of national defense, at the request of either the secretary of defense or the secretary of the DHS. These administrative actions are commonly called Section 501 waivers.

Historically, Jones Act waivers were granted following significant national events. Waivers were granted in 2017, following Hurricanes Harvey and Maria. More recently, a Jones Act waiver was granted in 2021, following the Colonial Pipeline cyberattack.

In this instance, DHS issued a Section 501(a) waiver at the request of the Department of Defense (DOD)². Consistent with the waiver’s not being a general suspension of coastwise activity, it was issued on March 17, 2026, and expires on May 17, 2026, at 11:59 p.m. EST. The waiver was issued directly in response to the ongoing conflict with Iran.

46 U.S.C Section 501 provides two different paths to waive the Jones Act. While Jones Act waivers are tied to national security, Sections 501(a) and 501(b) take different paths:

¹ See US Customs and Border Protection Cargo Systems Messaging System (CSMS) # 68096516- Implementation of Jones Act Waiver Issued to the Department of War, dated March 17, 2026, setting forth a list of potentially covered products.

² While the statute still refers to the secretary of defense, current Customs and Border Protection (CBP) and MARAD materials refer to the Department of War/ secretary of war. The nomenclature is generally understood as interchangeable.

DOD Waivers

A Section 501(a) waiver requires a finding by the US secretary of defense that it is “necessary in the interest of national defense to address an immediate adverse effect on military operations.”³ Within 24 hours of requesting a waiver, the secretary of defense must submit to Congress “a written explanation of the circumstances requiring such a waiver in the interest of national defense, including a confirmation that there are insufficient qualified vessels to meet the needs of national defense without such a waiver.”⁴

DHS Waiver

Under Section 502(b), the DHS secretary, without a DOD request, may issue a waiver when the DHS secretary finds it to be “necessary in the interest of national defense,” following a determination by the Maritime Administrator (MARAD) of the non-availability of qualified US-flag capacity to meet national defense requirements.⁵

Section 502(b) waivers are limited to 10 days’ duration and subject to one 10-day extension with the MARAD non-availability concurrence, with the maximum set of waivers for any one set of events not to exceed 45 days.⁶

For each such non-availability determination, MARAD must: (1) identify any actions that could be taken to enable US-flag capacity to meet the national defense needs; (2) provide notice of the non-availability determination to the secretaries of transportation and DHS and (3) publish each such non-availability determination no later than 48 hours after such determination is provided to the secretary of transportation.⁷

DHS must also notify the congressional committees of jurisdiction within 48 hours of receiving a waiver request, and within 48 hours of issuing any such waiver, explaining why the waiver is necessary and the reasons why actions identified by MARAD to enable US-flag ships to meet the national defense needs are insufficient.⁸

MARAD Reporting Requirements

Regardless of the basis for the waiver, pursuant to 46 U.S. Code § 501(c), every US domestic transportation of merchandise by foreign vessel under the Jones Act waiver must be reported to MARAD within 10 days of completion of the voyage. The report must include the following information, to be published by MARAD:

- The name and flag of the vessel
- The name of the owner and operator of the vessel
- The dates of the voyage
- Any relevant ports of call
- A description of the cargo carried
- An explanation as to why the waiver was in the interest of national defense
- Any other information the MARAD deems necessary

3 46 U.S.C. § 501(a)

4 *Id.*

5 46 U.S.C. § 501(b)(1).

6 *Id.* at 502(b)(2)

7 *Id.* at 501(b)(3)

8 *Id.* at 504(b)(4)

CBP Guidance on Implementation of The Jones Act Waiver

In a CSMS announcement, CBP “requests” that “any member of the trade community” who “intends” to transport commodities under the waiver should provide notification to CBP at jonesact@cbp.dhs.gov. See CSMS #68096516. Use of the term “requests” may reflect the fact that notice was not established pursuant to a formal rulemaking. It should nevertheless be treated as a requirement. Use of the term “intends” suggests that notification should be given prior to the shipment, although the CBP guidance (issued two days after the waiver was announced) states that “[i]f you have already commenced such transportation pursuant to the March 17, 2026, waiver, please provide the details set forth above by email to jonesact@cbp.dhs.gov.”

The CBP notification should include the following information: (i) vessel name, IMO number and flag; (ii) commodity and relevant Harmonized Tariff Schedule (HTS) Code; (iii) carrier and (iv) ports and dates of departure and arrival (include CBP port code).

CBP has also advised that other standard vessel notifications apply in this context:

- Foreign-flag vessels remain subject to the normal vessel entrance and clearance requirements. 19 U.S.C. § 1434(a) (2), and as implemented in 19 C.F.R. Part 4.
- Carriers engaging in trade under the waiver must provide a paper CBP Form 1302 (Inward Cargo Declaration) for all US domestic cargo laden from and intended for a US port of entry. Normally, this form requires you to list “Last Foreign Port Before US;” but since this is a coastwise movement, carriers list the previous immediate US port of departure. Instead of “Foreign Port Where Cargo is Laden on Board,” carriers list the US port of lading for the domestic cargo. Carriers must also include the following statement: “Shipment described is a domestic shipment moving under the requirement of the Jones Act waiver issued March 17, 2026.” If all these elements are included on the paper CBP Form 1302, CBP will allow the cargo to be cleared as domestic cargo.

Current Conditions and Considerations – Policy and Practice

Any Jones Act waiver is potentially subject to competing interests who either find the statute a relic of the past, or who consider the Jones Act as a necessary tool to safeguard and promote the US merchant marine. As a practical matter, the current geopolitical conditions have caused a spike in oil prices that has had a knock down impact on the price and availability of related products. The situation in the Straits of Hormuz (and considering prior Red Sea attacks) has caused marine insurers to either cancel or strictly restrict war risk cover.

As a result, the Trump administration announced a plan to have the US International Development Finance Corporation offer marine reinsurance for hull, machinery and cargo losses. The situation is fluid to say the least. Given that the waiver is short, the long-term nature of international tanker charters and that Jones Act qualified articulated tug and barge units move a significant amount of petroleum products between US ports, the economic impact of the Jones Act waiver remains to be seen.

Nonetheless, the waiver raises several significant policy questions. These include whether the waiver reflects only a temporary market disruption, or instead underscores more persistent constraints in the capacity and responsiveness of the domestic coastwise fleet; how policymakers should balance the Jones Act's long-standing domestic-industry and national-security objectives against calls for temporary flexibility in moments of supply stress; whether the current waiver framework affords sufficient clarity and predictability for market participants operating under compressed timelines and whether this episode may influence expectations regarding future resort to waiver authority in the energy and coastwise shipping context. How these questions are answered, and whether they prompt greater congressional interest in refining or reforming the Jones Act, including its associated waiver authority warrants close attention. In practice, as industry participants consider whether and how the waiver may apply to particular transactions or voyages during the waiver period, a number of questions may arise as to both the waiver's applicability and the measures appropriate to support compliance, including:

- Whether a particular cargo, route or coastwise movement falls within the scope of the waiver and any accompanying agency guidance
- What documentation or diligence may be appropriate to support a determination that reliance on the waiver is supportable in a particular case
- What notice, filing, reporting or recordkeeping steps may be advisable or expected in practice in connection with movements undertaken pursuant to the waiver
- How parties should address reliance on the waiver in relevant charter, transportation, terminal, purchase and sale or other contractual arrangements
- What legal or operational issues may arise if a movement undertaken in reliance on the waiver is delayed, modified or completed after the waiver expires

The waiver applies to approximately 659 potentially covered products. Given the significant penalties for Jones Act violations, any stakeholders who are considering using a foreign-flagged vessel for coastwise transportation should ensure that compliance with the conditions of the waiver is strictly adhered to.

Steps ensuring compliance would generally include:

- Verification that the cargo is subject to the waiver
- Voyage planning so that any transportation occurs during the 60-day window provided by the waiver
- Compliance with applicable reporting requirements to both CBP and MARAD
- Meticulous record keeping
- Review of applicable charters and related contracts to ensure that risk is assessed and allocated prior to any voyage
- Staying up-to-date with any modifications or revisions to the current Jones Act waiver
- Expectation that any shipments pursuant to the waiver will be public record

Stakeholders confronting these or related questions should consider the particular facts, cargoes, voyages and contractual arrangements at issue in light of the waiver, and the implementing guidance issued to date. To prevent and/or mitigate any potential noncompliance, stakeholders should engage experienced trade and shipping counsel to guide them during this period of market and political volatility. Squire Patton Boggs has leading International Trade and Foreign Investment, and Commodities and Shipping teams that can provide clients with experienced guidance and counsel. For more information, contact:

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