

118TH CONGRESS  
1ST SESSION

# H. R. 5991

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

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 19, 2023

Mr. GARAMENDI introduced the following bill

OCTOBER 25, 2023

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

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## A BILL

To require the Commandant of the Coast Guard and 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 of 2023”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

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

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

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

21 (4) Therefore, the Jones Act prohibits the use  
22 of a non-Jones Act qualified vessel for the provision  
23 of any coastwise transportation of merchandise to or  
24 from a port of the United States (including terri-  
25 tories or possessions to which the coastwise laws  
26 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-

1           toms Bulletin and Decisions, Vol. 53, No. 45)  
2           to be consistent with paragraph (1); and

3           (C) revoke or modify, as appropriate, any  
4           other treatments, including ruling letters, ac-  
5           corded by the Secretary to transactions that are  
6           substantially identical to the transactions de-  
7           scribed in this paragraph.

8           (3) REINSTATEMENT OF CERTAIN RULING LET-  
9           TERS.—Upon revoking and modifying the agency ac-  
10          tions under paragraph (2), the Secretary shall rein-  
11          state the following headquarters ruling letters (popu-  
12          larly known as the “Koff rulings”):

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

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

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

16          (d) INSTALLATION ACTIVITIES.—

17           (1) IN GENERAL.—The Secretary shall revoke  
18          the following headquarters ruling letters in which  
19          the Secretary determined that certain installation  
20          activities do not involve transportation of merchan-  
21          dise between points in the United States for pur-  
22          poses of section 55102 of title 46, United States  
23          Code:

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

25                   (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; or

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. PREVAILING WAGE REQUIREMENT.**

14           (a) IN GENERAL.—Chapter 81 of title 46, United  
15 States Code, is amended by adding at the end the fol-  
16 lowing:

17 **“§ 8108. Prevailing wage requirement**

18           “(a) IN GENERAL.—The Secretary shall require the  
19 owner or operator of a covered facility to provide each in-  
20 dividual who is manning or crewing the covered facility  
21 a prevailing wage (as such term is defined in section 3141  
22 of title 40) as determined by the Secretary of Labor in  
23 accordance with subchapter IV of chapter 31 of title 40  
24 (commonly referred to as the Davis-Bacon Act).



1           “(b) REVIEW OF COMPLIANCE.—The Secretary shall  
2 periodically, but not less than once annually, inspect each  
3 covered facility to verify that the owner or operator of such  
4 covered facility is in compliance with this section.

5           “(c) PENALTY.—The Secretary may impose on the  
6 owner or operator of a covered facility a civil penalty of  
7 \$10,000 per day for each day the owner or operator is  
8 not in compliance with this section.

9           “(d) DEFINITION OF COVERED FACILITY.—In this  
10 section, the term ‘covered facility’ means any vessel, rig,  
11 platform, or other vehicle or structure, over 50 percent  
12 of which is owned by citizens of a foreign nation or with  
13 respect to which the citizens of a foreign nation have the  
14 right effectively to control and operates under section  
15 302(a)(3) of the Outer Continental Shelf Lands Act (43  
16 U.S.C. 1356(a)(3)).”.

17           (b) RULEMAKING.—Not later than 90 days after the  
18 date of the enactment of this Act, the Secretary shall, in  
19 consultation with the Secretary of Labor, promulgate reg-  
20 ulations that specify the prevailing wage requirements  
21 under section 8108 of title 46, United States Code, as  
22 added by this section.

23           (c) EXISTING EXEMPTIONS.—

24                   (1) EFFECT OF AMENDMENTS; TERMI-  
25           NATION.—Each exemption under section 30(c)(2) of

1 the Outer Continental Shelf Lands Act (43 U.S.C.  
2 1356(e)(2)) issued before the date of the enactment  
3 of this Act—

4 (A) shall not be affected by the amend-  
5 ments made by this section during the 120-day  
6 period beginning on the date of the enactment  
7 of this Act; and

8 (B) shall not be effective after such period.

9 (2) NOTIFICATION TO HOLDERS.—Not later  
10 than 60 days after the date of the enactment of this  
11 Act, the Secretary shall notify all persons that hold  
12 an exemption described in paragraph (1) that such  
13 exemption will expire as provided in paragraph (1).

14 (d) RULE OF CONSTRUCTION.—The prevailing wage  
15 requirements under section 8108 of title 46, United States  
16 Code, as added by this section, shall not be construed to  
17 apply to collective bargaining agreements at ports, marine  
18 terminals, or similar facilities that are in effect as of the  
19 date of enactment of this Act.

20 (e) CLERICAL AMENDMENT.—The analysis for chap-  
21 ter 81 of title 46, United States Code, is amended by add-  
22 ing at the end the following:

“8108. Prevailing wage requirement.”.

23 **SEC. 11. RULEMAKING ON GARAMENDI AMENDMENT.**

24 Not later than 90 days after the date of enactment  
25 of this Act, the Commandant of the Coast Guard shall

1 issue such regulations as are necessary to implement the  
2 amendments to section 4(a)(1) of the Outer Continental  
3 Shelf Lands Act (43 U.S.C. 1333(a)(1)) made by section  
4 9503 of the William M. (Mac) Thornberry National De-  
5 fense Authorization Act for Fiscal Year 2021 (Public Law  
6 116–283).

7 **SEC. 12. RULES OF CONSTRUCTION.**

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

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

19 **SEC. 13. DEFINITIONS.**

20 In this Act:

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

1           (2) MERCHANDISE.—The term “merchandise”  
2           has the meaning given such term in section  
3           55102(a) of title 46, United States Code.

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

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

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

20          (6) SECRETARY.—The term “Secretary” means  
21          the Secretary of Homeland Security, acting through  
22          the Commissioner of U.S. Customs and Border Pro-  
23          tection.

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