



U.S. Department
of Transportation
**Maritime
Administration**

Administrator

1200 New Jersey Avenue, SE
Washington, DC 20590

May 12, 2021

(b)(6); (b)(7)(C)

Chief/Supervisory Attorney-Advisor
Cargo Security, Carriers and Restricted Merchandise Branch
Office of Trade, Regulations and Rulings
U.S. Customs and Border Protection

Dear **(b)(6); (b)(7)(C)**

This letter is in response to the request provided to MARAD on May 11, 2021, pertaining to the request pending with you to waive the coastwise navigation laws as applied to **(b)(4)** cargoes designated by **(b)(4)** as requiring transportation absent the availability of coastwise-qualified vessels. We assess that in one instance, a coastwise-qualified vessel is not available to transport one of the identified cargoes.

The request depicts eight cargoes of consisting of **(b)(4)** barrels each, with preferred loading dates ranging from **(b)(4)**. Separately, **(b)(4)** counsel, Blank Rome LLP, has noted that their client's two highest priorities are the lots destined from **(b)(4)** **(b)(4)** and from **(b)(4)** with further delivery to **(b)(4)**.

For the cargo destined for **(b)(4)** a waiver is not required as it is not a point in the United States. However, if additional information is available as to why a waiver would be required for an international cargo, we could certainly assist in determining availability. As for the cargo to **(b)(4)** our assessment is that there are insufficient U.S.-flag vessels to lift that cargo in its entirety as the desired load dates are **(b)(4)**.

For the remaining cargoes, with specified load date ranges extending from **(b)(4)** it is our assessment that coastwise qualified vessels appear to be available to fulfill those requirements. Our survey indicated that **(b)(4)** coastwise qualified vessels, each capable of carrying roughly **(b)(4)** barrels, would be available on **(b)(4)**. Unless some urgent and compelling reason exists whereby **(b)(4)** cannot accept these vessels, we consider them to be available to meet the transportation requirements set forth in this request. This determination is subject to reassessment under changed circumstances. MARAD is available to run additional market surveys as needed.

Please feel free to contact (b)(6); (b)(7)(C) at (b)(6); (b)(7)(C) if we can be of further assistance.

Sincerely,

(b)(6); (b)(7)(C)

Acting Maritime Administrator

Phone: (b)(6); (b)(7)(C)

Fax: (b)(6); (b)(7)(C)

Email: (b)(6); (b)(7)(C)

May 11, 2021

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
Washington, DC 20528

Re: **Jones Act Waiver Request:** (b)(4) –
Colonial Pipeline Recovery

***URGENT - EXPEDITED REVIEW REQUESTED; CONFIDENTIAL BUSINESS
INFORMATION AND TRADE SECRETS - NOT FOR PUBLIC DISTRIBUTION***

Dear Secretary Mayorkas:

On behalf of our client (b)(4), we respectfully request that the Secretary of Homeland Security grant an immediate waiver of the Coastwise Merchandise Statute (46 U.S.C. § 55102, commonly known as the “Jones Act”) to allow the carriage of certain refined products detailed below to designated U.S. ports on non-coastwise-qualified vessels, in order to offset shortages of fuel supplies in regions impacted by the shutdown of Colonial Pipeline and disruptions in refining capacity. As a full recovery of normal pipeline rates is expected to take two weeks or more beyond the eventual reopening of Colonial Pipeline, we ask that the waiver be granted for the maximum 10-day period allowable under the statute, subject to extension as necessary.

Background

About (b)(4).

(b)(4), the ultimate parent company of (b)(4), is the largest independent petroleum refiner in the world, and America's largest renewable fuels producer,

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employing approximately (b)(4) workers. It operates (b)(4) refineries and (b)(4) ethanol process plants and produces over (b)(4) per day of refined products. (b)(4) is also a trusted partner of the U.S. military. (b)(4)

(b)(4)

(b)(4)

Colonial Pipeline Outage and Supply Shortfall

Colonial Pipeline is the largest operator of a refined products pipeline in the U.S., transporting about 2.5 million barrels per day. Refined products carried by the pipeline include diesel, home heating oil and jet fuel, and the pipeline also supplies the U.S. military and its bases. Colonial spans over 5,500 miles between Texas and New Jersey, connecting refineries on the Gulf Coast to more than 50 million people in the southern and eastern U.S., according to the company, carrying more than 45% of the East Coast's fuel supply. According to a 2016 Department of Energy report, Colonial also delivers products to five U.S. military installations, from which up to ten additional bases from North Carolina to Maine are served.

In the wake of last week's cybersecurity breach, Colonial Pipeline continues to be offline. Statements by the company indicate that it continues to work on resuming operations, with an aim to substantially restarting carriage of products late this week. Segments of the pipeline reportedly are being brought back online in a stepwise fashion. Colonial explained in a public statement on Monday:

“Restoring our network to normal operations is a process that requires the diligent remediation of our systems, and this takes time. In response to the cybersecurity attack on our system, we proactively took certain systems offline to contain the threat, which temporarily halted all pipeline operations, and affected some of our IT systems. To restore service, we must work to ensure that each of these systems can be brought back online safely.”

Proposed Waiver

Need for Waiver to Avoid Supply and Refining Disruption

The loss of transport capacity arising from the shutdown of the Colonial Pipeline is projected to lead to significant fuel shortages, which are already beginning to manifest themselves, as detailed in numerous press reports, with communities in the Southeast, Northeast and aviation markets at most risk. Already some terminals in Georgia, the Carolinas and Virginia are reported to have run out of certain fuel types, with others reporting unbranded fuel supplies being shut off until the pipeline is restored. Airlines and airports reportedly are having

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to modify operations at major hubs such as Atlanta and Charlotte to address reduced jet fuel supply.

More immediately, however, the pipeline shutdown is projected to lead to a significant disruption of refinery production, which can be averted through issuance of a Jones Act waiver. The Colonial Pipeline is an integral piece of the fuel distribution system and for many Gulf Coast refineries (which operate 24/7), and therefore one of the main ways such refineries are cleared of finished product. As (b)(4) and other refiners become unable to ratably transport refined products away from refinery facilities, all local-storage capacity and other options for storage are quickly being filled, which will leave no option but to curtail refinery operations in the short-term, with the potential to shut down refining operations if Colonial's normal operations are not quickly fully restored. As of the filing of this request, there already are public reports that certain very large refineries in the Gulf Coast already have curtailed operations. This avoidable disruption in refining capacity consequently can be expected to prolong the process of fully restoring supplies to civilian and military users dependent on Colonial Pipeline supplies and exacerbate the risk and volatility associated with that recovery, with the potential to result in protracted price spikes and fuel disruptions.

Even in the best-case scenario of a "significant" restoration of operations by this upcoming weekend, the initial reduction in pipeline rate means that full restoration (including normal rates restored to both the mainline and spur terminals) is projected to take two weeks or more. While the Department of Transportation has sought to ease hours of service restrictions on trucking to add more vehicle capacity to transport refined products from refineries into the distribution system, there is no feasible way the trucking sector can accommodate the sheer volume from (b)(4)'s facilities that would be necessary to continue normal operations. (b)(4) (b)(4) refinery produces approximately (b)(4) per day (bpd) of finished fuels (comprised of approximately (b)(4) bpd of ultra-low sulfur diesel (ULSD), (b)(4) bpd of gasoline, and (b)(4) bpd of jet fuel), and its (b)(4) facility produces approximately (b)(4) bpd of finished fuels (b)(4) bpd of ULSD, (b)(4) bpd of gasoline, and (b)(4) bpd of jet fuel). There is simply not adequate truck capacity to transport these volumes to domestic markets. (b)(4) calculates the estimated need would be approximately (b)(4) trucks per day; assuming a three-day round-trip to key markets in the Southeast, a total fleet of (b)(4) trucks would be needed to serve (b)(4) alone.

Similarly, based on (b)(4) market outreach efforts in recent days, coastwise-qualified barge or vessel tonnage is unavailable for (b)(4) use, and there is no viable alternative pipeline capacity currently available in the market to accommodate the volumes (b)(4) needs moved.

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A full or partial shutdown of refining operations could directly impact military readiness and capabilities. Under (b)(4) (b)(4) barrels of such jet fuel has been nominated for May deliveries and (b)(4) barrels for June deliveries. If there is a supply issue that would require (b)(4) to reduce or suspend refinery production, delivery for the above monthly requirements may be impacted. Additionally, (b)(4)

(b)(4)

(b)(4)

impact supply to these locations.

Specific Authority Requested

To move products out of its refinery facilities to the communities where they are most needed and to forestall containment issues and the ripple effects such issues will cause, (b)(4) requests a waiver covering the below products and regions:

- (b)(4)
- (b)(4)
- (b)(4)
- (b)(4)
- (b)(4)
- (b)(4)

While (b)(4) is not a coastwise point, a waiver is needed for those volumes as (b)(4) is only an intermediate point, and the final destination of those barrels will be in the United States, so the coastwise laws would apply.

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Discussion

Applicable Law

The Jones Act provides in part that no merchandise shall be transported by water, or by land and water, between points in the United States embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any vessel other than a vessel built in and documented under the laws of the United States and owned by citizens of the United States. The coastwise navigation laws can only be waived under the authority provided by 46 U.S.C. § 501(b), which states in relevant part:

“When the head of an agency responsible for the administration of the navigation or vessel-inspection laws considers it necessary in the interest of national defense, the individual, following a determination by the Maritime Administrator, acting in the Administrator’s capacity as Director, National Shipping Authority, of the non-availability of qualified United States flag capacity to meet national defense requirements, may waive compliance with those laws to the extent, in the manner, and on the terms the individual, in consultation with the Administrator, acting in that capacity, prescribes.”

Recent amendments to this section limit a waiver issued under this section to a period of not more than ten days, which may be extended for a period up to forty-five days.

Issuance of a Waiver is Consistent with Precedent

Granting a waiver of the coastwise laws under these circumstances is in the interest of national defense, including the homeland security of the United States. As discussed above, issuance of a waiver will avert serious risks of: (1) supply disruptions impacting surface transportation and aviation in markets across the Southeast, (2) slowdown or interruption of refinery production in the Gulf region, and (3) potential disruption of (b)(4) (b)(4)

Maintaining adequate energy supplies has been recognized as a national defense interest for the purposes of granting a Jones Act waiver. Quoting from the July 3, 1989 letter from the U.S. Customs Service to Exxon Shipping Company with respect to the coastwise waiver granted for oil skimming vessels during the Exxon Valdez oil spill:

“The opinion of the Department of Energy is that the requested coastwise waiver extension is necessary in the interest of national defense. The Department of Energy refers to Congressional enactments and a memorandum of law by the Office of Legal Counsel of the Department of Justice and concludes that the Congress has recognized that

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supplies of crude oil and petroleum products are vital to the national defense, and the availability of energy supplies would be jeopardized in both the near-term and the longer-term by a failure to act promptly and effectively to clean up the Alaska oil spill. The Department of Energy states that it believes that this provides a valid basis for waiving the coastwise laws in the interest of national defense.”

Ruling Letter HQ 110310 (July 3, 1989); see also Ruling Letter HQ 110270 (May 15, 1989).

More recently, in 2005, DHS granted a Jones Act waiver after Hurricane Katrina. DHS stated that the catastrophic destruction brought about by Hurricane Katrina dramatically impeded the production and transportation of oil, gas, and other energy sources. Additionally, the Administration decided to draw down the Strategic Petroleum reserve at that time and needed foreign-flag vessels to transport the supply.

Because time is of the essence, (b)(4) has provided in this request information it considers most relevant. (b)(4) is happy to provide any additional information necessary for the consideration of this request. Please let us know if you have any questions.

As this request contains confidential and sensitive non-public commercial information and trade secrets, we request that it be withheld from public disclosure to the full extent permitted by law.

Very truly yours,

(b)(6); (b)(7)(C)

Partner



Homeland
Security

May 12, 2021

(b)(6); (b)(7)(C)

Blank Rome LLP
1825 Eye St., NW
Washington, D.C. 20006

Dear (b)(6); (b)(7)(C)

This is in response to your correspondence of May 11, 2021, wherein you requested a waiver of the Jones Act on behalf of your client, (b)(4), for a proposed coastwise transportation activity onboard several non-coastwise-qualified vessels. Your client proposes to use these vessels to transport (b)(4) separate shipments of refined fuel products (*i.e.*, gasoline, diesel, and jet fuel) on or about (b)(4), for discharge at several additional points in the United States, on or about (b)(4). You state that Valero is requesting this waiver “in order to offset shortages of fuel supplies in regions impacted by the shutdown of Colonial Pipeline and disruptions in refining capacity.”

As you know, the Jones Act, 46 U.S.C. § 55102, provides, in part, that no merchandise shall be transported between points in the United States embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any vessel other than a vessel built in, documented under the laws of, and owned by citizens of the United States. The coastwise laws, including the Jones Act, generally apply to points in the territorial sea, which is defined as the belt, three nautical miles wide, seaward of the territorial sea baseline, and to points located in internal waters, landward of the territorial sea baseline.

The coastwise laws administered by U.S. Customs and Border Protection (CBP) can only be waived under the authority provided in 46 U.S.C. § 501. This statute provides in pertinent part:

When the head of an agency responsible for the administration of the navigation or vessel-inspection laws considers it necessary in the interest of national defense, the individual, following a determination by the Maritime Administrator, acting in the Administrator's capacity as Director, National Shipping Authority, of the non-availability of qualified United States flag capacity to meet national defense requirements, may waive compliance with those laws to the extent, in the manner, and on the terms the individual, in consultation with the Administrator, acting in that capacity, prescribes. See 46 U.S.C. § 501(b).

We requested the views of the Department of Defense (DoD) and the Department of Energy (DOE) with respect to your waiver request and its national defense implications. DoD does not object to DHS granting the waiver at the request of another agency or if it determines a waiver to be necessary.

DOE recommends approval of a waiver. In relevant part, DOE determined that the loss of transport capacity arising from the shutdown of the Colonial Pipeline is projected to cause significant fuel shortages and disruptions to refinery capacity.

In light of DOE's determination, we requested the Maritime Administrator at the Department of Transportation (MARAD) to provide input regarding whether there are U.S.-flagged vessels available to transport the fuel products outlined in your waiver request. MARAD has advised us that no U.S.-flag capacity exists with respect to the proposed transportation from (b)(4), (b)(4), with further delivery to (b)(4). With respect to six of the remaining cargoes, however, MARAD has advised that six coastwise-qualified vessels are available to carry the subject fuel in the near term. We are continuing to discuss with MARAD the final requested cargo that involves the stop in (b)(4) and will respond separately to that request.

We have carefully considered your request for a waiver of the Jones Act and the information available to the Department. At this time I have determined that a waiver of the Jones Act is warranted in the interest of national defense for one of the transportations in your request. We find that your requested waiver with respect to the proposed transportation from (b)(4), (b)(4), with further delivery to (b)(4) is in the interest of national defense because there were no U.S.-flagged vessels available in the immediate timeframe to perform this transportation, and moving these products is urgently required. We also find, however, based on the information available at this time, that your request for a waiver with respect to the seven remaining cargoes is not necessary in the interest of national defense because there are U.S.-flagged vessels available to perform these transportations in the near term. Accordingly, your request for a waiver of the Jones Act, as described above, is granted in part and denied in part.

(b)(6); (b)(7)(C)

Alejandro N. Mayorkas

cc: (b)(6); (b)(7)(C) Department of Defense
(b)(6); (b)(7)(C) Maritime Administration
(b)(6); (b)(7)(C) Department of Energy

From: [JONES ACT WAIVER REQUEST](#)
To: (b)(6); (b)(7)(C)
Subject: FW: Jones Act Waiver Request - Completed
Date: Wednesday, May 25, 2022 1:05:46 PM

From: Long, Keith <Keith.Long@pbfenergy.com>
Sent: Friday, March 4, 2022 10:06 AM
To: JONES ACT WAIVER REQUEST <jonesactwaiverrequest@cbp.dhs.gov>
Subject: RE: Jones Act Waiver Request - Completed

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. If you feel this is a suspicious-looking email, please report by using the Report Phish button option.

Hello (b)(6); (b)(7)(C)

Please withdraw this below request. I will be reverting with a revised request in a few hrs.

Thank you

Keith

From: Long, Keith <Keith.Long@pbfenergy.com>
Sent: Friday, March 4, 2022 9:23 AM
To: JonesActWaiverRequest@cbp.dhs.gov
Cc: Long, Keith <Keith.Long@pbfenergy.com>
Subject: Jones Act Waiver Request - Completed

Hello (b)(6); (b)(7)(C)

I have added to the below email the section on national defense implications as discussed. If possible, could you help me with some ideas on timing from now and any next steps I would need to take?

Thank you

Keith

=====
=====
Hello (b)(6); (b)(7)(C)

As per our conversation earlier today PBF Holding LLC needs to apply for a jones act waiver to move crude oil as per the below:

- Cargo (description, type, weight and dimensions of cargo, units if containerized)
500,000 KB of Bryan Mount Sour (Freeport), Big Hill Sour (Sun Nederland), West Hackberry Sour (Sun Nederland)
- Name of the vessel that will be used for the proposed transportation
Foreign Aframax Vessel
- Available for Loading Date (ready for pick-up)
04/1-05/31
- Required Shipping Date (must be shipped by)
04/1-05/31
- Required Delivery Date
04/01-06/15
- Preferred Port of Embarkation (POE)
Freeport or Sun Nederland
- Preferred Port of Debarkation (POD)
Delaware City, DE
- Name of Shipper
U.S. Department of Energy Strategic Petroleum Reserve
- Name of Consignee
PBF HOLDING COMPANY LLC
1 SYLVAN WAY, 2ND FL
PARSIPPANY, NJ 07054
TEL: 973-455-7500
- Point of Contact (name, phone, email)

Keith Long
Director, Chartering
PBF Holding Company LLC
Office: (973) 455-7586
Mobile: (b)(6); (b)(7)(C)
Email: keith.long@pbfenergy.com
- Special Instructions (Hazmat? Other concerns?)
None
- A statement that the requester does not have under charter any coastwise-qualified vessel that is: capable of transporting the type of merchandise at issue, and whether or

not it is laden with the type of cargo described in the request.

Confirmed - we do not have any chartered tonnage that can meet this requirement and there is no available spot Jones act tonnage that can meet this requirement.

- Why granting the waiver for the proposed transportation of cargo would be necessary in the interest of national defense.

In response to the question of why this oil move would be necessary in the interest of national defense we feel that recent events in the Ukraine threaten our oil supplies to our refineries, especially those in Delaware City and Paulsboro. The US east coast refineries lack pipeline options to supply domestic crude so are mainly dependent on foreign crude imports. Beyond the mere removal of Russian oil from the options the situation will create a global shake up in oil flows and supplies that could threaten our ability to feed our refineries. This lack of crude supply could in turn force us to reduce production or possibly shut down units. There is already a limited refining complex on the east coast and cuts like these would affect all fuel outputs, namely Jet/Gasoline/Diesel. Reduced access to these critical fuels would in turn create shortages for the civilian and government worlds alike that support daily life as well as our domestic defense infrastructure. To surmise, our ability to produce fuel is being threatened by the global oil supply shakeups in the wake of the Ukrainian events. We stand by the calls from world leaders to not support Putins actions but in turn need help to find alternate oil supplies to keep our critical infrastructure producing and feeding the country. Please find below some date points in support of the above:

- **Russian's Ukrainian Invasion Poses a Threat to Global Energy Security and U.S. National Security**

- The recent coordinated strategic petroleum reserve (SPR) release was initiated to protect U.S. national and global energy security interests in the face of Russia's aggression against Ukraine.
- In announcing the joint release, the International Energy Agency's Governing Board, which U.S. Energy Secretary Jennifer Granholm chairs, stated:
 - "The IEA Ministers noted with concern the energy security impacts of the egregious actions by Russia, and voiced support for sanctions imposed by the international community in response."
 - "The Ministers noted that Russia's invasion comes against a backdrop of already tight global oil markets, heightened price volatility, commercial inventories that are at their lowest level since 2014, and a limited ability of producers to provide additional supply in the short term."
 - "The Ministers resolved today that energy supply should not be used as a means of political coercion nor as a threat to national and international security."^[1]
- IEA also noted the security implications are heightened given Russia's, "outsized role on global energy markets."
- White House Press Secretary Jen Psaki stated, "We are prepared to use every tool available to us to limit disruption to global energy supply as a result of President Putin's

actions,” while also noting the need to, “...secure the world from Moscow’s weaponization of oil and gas.”^[2]

- U.S. Secretary of Energy Jennifer Granholm has emphasized the need, “...to secure the world from Putin’s attempts to weaponize energy supplies.”^[3]
- **The U.S. is particularly vulnerable to energy disruptions in the current environment.**
 - Underinvestment in upstream oil and gas production due to COVID and other factors has resulted in a world market significantly short on crude oil.
 - As IEA stated, “The Ministers noted that Russia’s invasion comes against a backdrop of already tight global oil markets, heightened price volatility, commercial inventories that are at their lowest level since 2014, and a limited ability of producers to provide additional supply in the short term.”
 - Global crude oil inventories are at record low levels and OPEC+ has little spare capacity to address a significant disruption.
 - Russia exports over 6 million barrels per day, OPEC spare capacity is between 3 to 5 million barrels per day and global inventories are significantly below the 2015-2019 range.
- **In such an environment, it is imperative for Federal policy to maximize crude supply access to as diverse an array of refiners as possible to ensure America’s energy and national security.**
 - Ten U.S. refineries have closed or announced closure since 2019, resulting in over 1.3 million barrels per day of lost domestic refining capacity.
 - Two of those refineries operated in Louisiana and represented nearly 500,000 barrels per day of refining capacity.
 - Louisiana refiners – including the Chalmette Refinery’s 185,000 barrels per day of refining capacity - are critical suppliers to the Gulf Coast and Colonial Pipeline, which fuels the entire Eastern Seaboard, home to the Atlantic Fleet and several other national security assets.
 - America’s national security would be greatly diminished if more domestic refiners closed, due to lack of crude oil supply.
 - Refinery closures on the West Coast have already increased the state’s need for imported finished petroleum products. The East Coast is already trade exposed to European and Asian gasoline and diesel fuel imports.

Additional refinery closures and increasing reliance on imported fuels would adversely impact America’s national security interests.

Thank you very much,

Keith Long
Director, Chartering
PBF Holding Company LLC
Office: (973) 455-7586

Mobile: (b)(6); (b)(7)(C)

Email: keith.long@pbfenergy.com

Group: pbfmarineops@pbfenergy.com

Tanker Group: pbftankerops@pbfenergy.com

ICE ID: klong



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[1] <https://www.iea.org/news/iea-member-countries-to-make-60-million-barrels-of-oil-available-following-russia-s-invasion-of-ukraine>

[2] White House Press Conference, 3/1/22

[3] <https://www.energy.gov/articles/us-and-30-countries-commit-release-60-million-barrels-oil-strategic-reserves-stabilize>

Jones Act Waiver for Delaware City is Necessary to Protect National Security Given Global Energy Disruptions

- **Russian’s Ukrainian Invasion Poses a Threat to Global Energy Security and U.S. National Security**
 - The recent coordinated strategic petroleum reserve (SPR) release was initiated to protect U.S. national and global energy security interests in the face of Russia’s aggression against Ukraine.
 - In announcing the joint release, the International Energy Agency’s Governing Board, which U.S. Energy Secretary Jennifer Granholm chairs, stated:
 - “The IEA Ministers noted with concern the energy security impacts of the egregious actions by Russia, and voiced support for sanctions imposed by the international community in response.”
 - “The Ministers noted that Russia’s invasion comes against a backdrop of already tight global oil markets, heightened price volatility, commercial inventories that are at their lowest level since 2014, and a limited ability of producers to provide additional supply in the short term.”
 - “The Ministers resolved today that energy supply should not be used as a means of political coercion nor as a threat to national and international security.”¹
 - IEA also noted the security implications are heightened given Russia’s, “outsized role on global energy markets.”
 - White House Press Secretary Jen Psaki stated, “We are prepared to use every tool available to us to limit disruption to global energy supply as a result of President Putin’s actions,” while also noting the need to, “...secure the world from Moscow’s weaponization of oil and gas.”²
 - U.S. Secretary of Energy Jennifer Granholm has emphasized the need, “...to secure the world from Putin’s attempts to weaponize energy supplies.”³
- **The U.S. is particularly vulnerable to energy disruptions in the current environment.**
 - Underinvestment in upstream oil and gas production due to COVID and other factors has resulted in a world market significantly short on crude oil.
 - Morgan Stanley notes that compared to 2019 levels, exploration and production spending is down 35 percent, government licensing activity has decreased 66 percent, completed wells have dropped 52 percent and new discoveries are at a 20 year low.⁴
 - As IEA stated, “The Ministers noted that Russia’s invasion comes against a backdrop of already tight global oil markets, heightened price volatility, commercial inventories that are at their lowest level since 2014, and a limited ability of producers to provide additional supply in the short term.”
 - Global crude oil inventories are at record low levels and OPEC+ has little spare capacity to address a significant disruption.

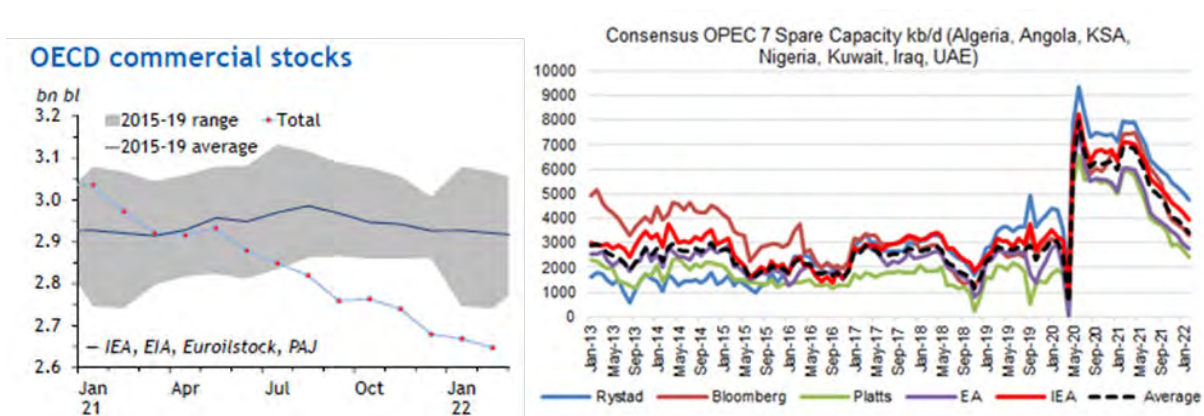
¹ <https://www.iea.org/news/iea-member-countries-to-make-60-million-barrels-of-oil-available-following-russia-s-invasion-of-ukraine>

² White House Press Conference, 3/1/22

³ <https://www.energy.gov/articles/us-and-30-countries-commit-release-60-million-barrels-oil-strategic-reserves-stabilize>

⁴ Morgan Stanley Research – The Oil Manual Global. *Heading for a Triple Deficit*. January 6, 2022.

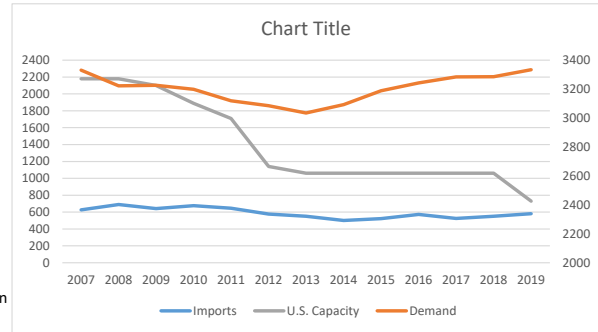
- Russia exports over 5 million barrels per day, OPEC spare capacity is between 3 to 5 million barrels per day and global inventories are significantly below the 2015-2019 range.



- IEA notes, “Russia plays an outsized role on global energy markets. It is the world’s third largest oil producer and the largest exporter. Its exports of about 5 million barrels a day of crude oil represent roughly 12% of global trade – and its approximately 2.85 million barrels a day of petroleum products represent around 15% of global refined product trade.”⁵
- **In such an environment, it is imperative for Federal policy to maximize crude supply access to as diverse an array of refiners as possible to ensure America’s energy and national security. It is specifically imperative to ensure supply to PADD 1 (East Coast) refineries.**
 - Ten U.S. refineries have closed or announced closure since 2019, resulting in over 1.3 million barrels per day of lost domestic refining capacity.
 - Two of those refineries operated in Louisiana and represented nearly 500,000 barrels per day of refining capacity.
 - Gulf refiners are critical suppliers to the Colonial Pipeline, which fuels the entire Eastern Seaboard, home to the Atlantic Fleet and several other national security assets.
 - The East Coast itself has also seen 14 closures since 2008, and with Colonial Pipeline full, imports are the only option to address any additional indigenous refinery outages.
 - America’s national security would be greatly diminished if another East Coast refiner closed due to lack of crude oil supply, particularly since the East Coast is already trade exposed to European and Asian gasoline and diesel fuel imports (which already represent a significant portion of East Coast supply).
 - Additional refinery closures and increasing reliance on imported fuels would adversely impact America’s national security interests.

⁵ <https://www.iea.org/news/iea-member-countries-to-make-60-million-barrels-of-oil-available-following-russia-s-invasion-of-ukraine>; <https://www.iea.org/reports/russian-supplies-to-global-energy-markets>

Year	Imports	Demand	U.S. Capacity	Imports as % of Demand	PADD Ref % of L 2007 Tot
2007	627	3331	2179.3	0.188231762	0.654247974
2008	690	3223	2179.3	0.214086255	0.676171269
2009	641	3227	2099.3	0.198636504	0.650542299
2010	677	3199	1888	0.211628634	0.590184433
2011	645	3119	1710	0.20679705	0.548252645
2012	576	3085	1140	0.186709887	0.369529984
2013	551	3035	1060	0.1815486	0.349258649
2014	501	3093	1060	0.161978661	0.342709344
2015	523	3188	1060	0.164052698	0.332496863
2016	573	3243	1060	0.176688252	0.326857848
2017	526	3284	1060	0.160170524	0.322777101
2018	550	3285	1060	0.167427702	0.322678843
2019	581	3334	730	0.174265147	0.218956209



Imports: <https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n>

Othe Imports Link: https://www.eia.gov/dnav/pet/pet_move_imp_dc_R10-Z00_mbbldpd_a.htm

Demand: <https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=MGFUPP12&f=A>

East Coast Trade Balances

So here is a generic balance for PADD 1 (the East Coast) using U.S. EIA Petroleum Supply Monthly (PSM) averages (Jan 2018 – May-19).

The data below takes historical averages and then modeled what occurred with trade flows when PES shut down. If another PADD 1 refinery is shut down, you would not be able to have higher runs from other local refineries and you are likely limited on more barrels come up from the Gulf via Colonial Pipeline, so the result would be even more imports. The dark blue rows on the bottom show that just with PES shutting down, fuel imports rose by about 145,000 barrels per day on the major products listed below.

	Historical Average	ex PES	Change
Gasoline			
Refinery & Blender Net Prod	3,231	3,116	-115
Imports	592	680	88
Pipeline/tanker intra movements into PADD 1	2,037	2,065	27
Total Supply kb/d	5,861	5,861	0
Product Supplied	3,290	3,290	0
Exports	11	11	0
Refiner net inputs	2,345	2,345	0
Pipeline/tanker intra movements out of PADD 1	212	212	0
Total Demand kb/d	5,858	5,858	
Build/(Draw) Mb			
Jet Kero			
Refinery & Blender Net Prod	90	69	-21
Imports	49	65	16
Pipeline/tanker intra movements into PADD 1	504	509	5
Total Supply kb/d	643	643	0
Product Supplied	620	620	0
Exports	16	16	0
Refiner net inputs	9	9	0
Pipeline/tanker intra movements out of PADD 1	9	9	0
Total Demand kb/d	645	645	
Build/(Draw) Mb			
Distillate Fuel Oil			
Refinery & Blender Net Prod	339	286	-53
Imports	199	240	41
Pipeline/tanker intra movements into PADD 1	890	903	13
Total Supply kb/d	1,428	1,428	0
Product Supplied	1,295	1,295	0
Exports	54	54	0
Refiner net inputs	89	89	0
Pipeline/tanker intra movements out of PADD 1	89	89	0
Total Demand kb/d	1,438	1,438	
Build/(Draw) Mb			
Total Gasoline, Jet Kero, Distillate Fuel Oil			
Refinery & Blender Net Prod	3,660	3,470	-190
Imports	840	985	145
Pipeline/tanker intra movements into PADD 1	3,432	3,477	45
Total Supply	7,932	7,932	0
Product Supplied	5,205	5,205	0
Exports	81	81	0
Refiner net inputs	2,345	2,345	0
Pipeline/tanker intra movements out of PADD 1	310	310	0
Total Demand	7,941	7,941	
Build/(Draw) Mb			

Atlantic Basin Refinery Shutdowns: 2008-2019

North American “East Coast” Refineries: Caribbean Islands to Eastern Canada

<u>Company/Refinery</u>	<u>Location</u>	<u>Capacity/bpd</u>	<u>Notes</u>
ConocoPhillips	Trainer, PA	175,000	Restarted
Valero	Delaware City, DE	190,000	Restarted
Hess Port Reading	Woodbridge, NJ	70,000	Terminal
Chevron USA	Perth Amboy, NJ	80,000	Terminal
Sunoco Eagle Point	West Deptford, NJ	145,000	Terminal
Sunoco Marcus Hook	Marcus Hook, PA	178,000	Nat Gas
Western Refining	Yorktown, VA	66,300	Terminal
PES Philadelphia, PA	330,000	Idled	
<u>Caribbean</u>			
Shell	Yabucoa, Puerto Rico	80,000	
Hovensa *	St. Croix, USVI	650,000	Restarted/idle
Valero	Aruba, Lesser Antilles	235,000	Terminal
Petrotrin	Point-a-Pierre, T&T	168,000	Idle
Refineria di Korsou (RdK)	Isla refinery	335,000	Idle
<u>Canada</u>			
Come-by-Chance	CBC, Newfoundland, CA	130,000	Idled
Imperial Dartmouth	Dartmouth, Nova Scotia	89,000	Terminal
Shell	Montreal, Quebec, CA	130,000	Terminal

* Refinery originally built to process ~650,000 BPD; reportedly restarted at ~200,000 bpd by Limetree Bay Ventures, which has been temporarily idled by USEPA.

Atlantic Basin Refinery Shutdowns: 2009-2013

European Refineries

Company/Refinery	Location	Capacity/bpd
Lyondell-Basell	Berre L'Etang, France	105,000
ConocoPhillips	Wilhelmshaven, Germany	260,000
Petroplus	Reichstett, France	260,000
Shell	Harburg, Germany *	110,000
Total	Dunkirk, France	150,000
Tamoil	Cremona, Italy	90,000
Petroplus	Teeside, England	117,000
Petroplus	Essex, England	175,000
Petroplus	Petit Courronne, France	162,000

** The refinery is only making specialty products - no gasoline or diesel fuel*

From: [JONES ACT WAIVER REQUEST](#)
To: (b)(6); (b)(7)(C)
Subject: FW: Request for Jones Act Waiver
Date: Wednesday, May 25, 2022 1:24:43 PM

This was the last communication that I received from Novum. I have not heard from them since.

From: Eugenio Ferrero <eferrero@novumenergy.com>
Sent: Sunday, April 3, 2022 2:07 PM
To: JONES ACT WAIVER REQUEST <jonesactwaiverrequest@cbp.dhs.gov>
Cc: Carlos Moreno <cmoreno@novumenergy.com>; Frank Rexach <fr@novumenergy.com>; Mike Winstone <mwinstone@novumenergy.com>; Alfredo Vilas <av@novumenergy.com>; Jared Enochs <jenochs@novumenergy.com>; Fernando Vulcano <fvulcano@novumenergy.com>; (b)(6); (b)(7)(C)
Subject: Re: Request for Jones Act Waiver

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Thank you (b)(6); (b)(7)(C)

Will make contact accordingly.

Regards

Eugenio Ferrero

Novum Energy

(b)(6); (b)(7)(C)

Eferrero@novumenergy.com

On Apr 3, 2022, at 11:02 AM, JONES ACT WAIVER REQUEST <jonesactwaiverrequest@cbp.dhs.gov> wrote:

Dear Mr. Ferrero,

Pursuant to our conversation, I also indicated that it would be prudent for your company to first reach out to the Maritime Administration (MARAD) at the Department of Transportation to determine whether there are U.S., coastwise-qualified vessels available for the transportation you propose before you submit a request to CBP for the Secretary of DHS to waive the Jones Act for such transportation. You may contact

(b)(6); (b)(7)(C) at the e-mail above or at (b)(6); (b)(7)(C)

Sincerely,

(b)(6); (b)(7)(C)

From: [JONES ACT WAIVER REQUEST](#)
To: (b)(6); (b)(7)(C)
Subject: FW: Request for Jones Act Waiver
Date: Wednesday, May 25, 2022 1:22:18 PM

From: Eugenio Ferrero <eferrero@novumenergy.com>
Sent: Friday, April 1, 2022 6:22 PM
To: JONES ACT WAIVER REQUEST <jonesactwaiverrequest@cbp.dhs.gov>
Cc: Carlos Moreno <cmoreno@novumenergy.com>; Frank Rexach <fr@novumenergy.com>; Mike Winstone <mwinstone@novumenergy.com>; Alfredo Vilas <av@novumenergy.com>; Jared Enochs <jenochs@novumenergy.com>; Fernando Vulcano <fvulcano@novumenergy.com>; Eugenio Ferrero <eferrero@novumenergy.com>
Subject: RE: Request for Jones Act Waiver

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Dear (b)(6); (b)(7)(C)

Thank you for the very prompt response to our application. It has been a pleasure speaking with you. Following your recommendation we are withdrawing the request in order to prepare a more informative and detailed explanation of the circumstances related to need of a Jones Act waiver.

Thank you and best regards



Eugenio Ferrero
Head of Operations and Claims
For and on behalf of, Novum Energy Trading Corp.
3200 Kirby Drive, Ste 1000, Houston TX 77098
eferrero@novumenergy.com
of + 1(832) 416-7278 | cel (b)(6); (b)(7)(C)

From: Eugenio Ferrero <eferrero@novumenergy.com>
Sent: Friday, April 1, 2022 4:44 PM
To: JonesActWaiverRequest@cbp.dhs.gov
Cc: Eugenio Ferrero <eferrero@novumenergy.com>; Carlos Moreno <cmoreno@novumenergy.com>; Frank Rexach <fr@novumenergy.com>; Mike Winstone <mwinstone@novumenergy.com>; Alfredo Vilas <av@novumenergy.com>; Jared Enochs <jenochs@novumenergy.com>; Fernando Vulcano <fvulcano@novumenergy.com>
Subject: Request for Jones Act Waiver
Importance: High

Dear Sirs,

We are Novum Energy Trading Inc (NETI) and our HQ is located in Houston, TX. Starting November 2021 we have been awarded a yearly contract with Puerto Rico Electric Power Authority (PREPA), a United States government entity, for the supply of approximately (b)(4) of Diesel to cover the needs of their power plants in the island.

While NETI has currently on Time Charter a US domestic barge, the DS-601, which is utilized for the delivery of small parcels of Diesel to several small ports in the island from the CORCO storage in Guayanilla, NETI has been procuring the Diesel necessary to fulfill their contract obligations with PREPA from several sources, mostly of foreign/non US origin, and shipped by foreign/non Jones Act ships. The recent sanctions imposed by the US government on Russian oil and Russian interests at large has created the unprecedented situation whereby the supply of Diesel in the market has become increasingly difficult because now most of the Diesel is diverted to Europe, or remains in Europe and other parts of the world as a way to compensate for the lack of Diesel supply from Russian counterparties.

We are extremely concerned that NETI may not be able to supply PREPA with suitable Diesel at the appropriate time in the near future. Diesel supply security is critical for the generation of electricity in the island of Puerto Rico.

One of the alternative sources of supply of Diesel is the domestic American market. However, the move from mainland USA to Puerto Rico falls under the Jones Act restrictions and the availability of Jones Act ships able to carry ULSD is practically nonexistent. Therefore, while we keep looking for alternative supply sources, we wish to preemptively ask for a Jones Act waiver to be applied to our future and immediate deliveries of Diesel into Puerto Rico. PREPA has also enquired with Novum about a Jones Act waiver possibility in order to increase the reliability of supply to the power plants.

Our indicative monthly deliveries are as follows:

(b)(4)

Please note the following information related to these Jones Act waiver requests:

Cargo quality: Diesel Oil in bulk, (b)(4)

Name of vessel: to be confirmed, subject to availability

Available loading dates: to be confirmed depending on PREPA supply demand

Required shipping dates: to be confirmed by PREPA

Preferred port of Embarkation: US Gulf Coast

Preferred port of Debarkation: Guayanilla, Puerto Rico

Name of Shipper: NETI

Name of Consignee: PREPA

Point of contact: Eugenio Ferrero, NETI Head of Operations, cell phone (b)(6); (b)(7)(C)

eferrero@novumenergy.com

Special instructions: none

Statement: in addition to the DS-601 NETI does not have under charter any vessel that is capable of transporting the volume and type of cargo described in the request

Reasons for granting the waiver: see above.

Thank you in advance for your time and consideration. We are waiting your prompt reply.

Should you need any additional information please do not hesitate to contact the undersigned.

Regards



Eugenio Ferrero

Head of Operations and Claims

For and on behalf of, Novum Energy Trading Corp.

3200 Kirby Drive, Ste 1000, Houston TX 77098

eferrero@novumenergy.com

of +1(832) 416-7278 | cel + (b)(6); (b)(7)(C)



Marathon Petroleum Company LP

539 South Main Street
Findlay, OH 45840
Main No.: 419.422.2121

(b)(6); (b)(7)(C)

Director, Jones Act Division of Enforcement
U.S. Customs and Border Protection

May 12, 2021

Dear Sir;

Marathon Petroleum Company LP ("Marathon") requests a Jones Act Waiver as a result of the cyber-attack on the Colonial Pipeline. Following the cyber-attack and the subsequent shutdown of the pipeline on May 7, diesel distribution capabilities in the Gulf Coast and East Coast were severely disrupted. Marathon's Garyville Louisiana refinery planned to deliver approximately 130,000 barrels per day to the Baton Rouge origin of Colonial Pipeline for distribution to East Coast markets. With Colonial Pipeline unable to accept these deliveries the refinery was facing diesel containment on May 12.

In order to keep Garyville refinery production from being severely impacted the following actions were taken:

1. May 7 – Began ULSD production cut at the refinery.
2. May 7 – Chartered the Crowley Jones Act ATB 650-1, 185,000 bbls, to alleviate inventory constraints at the refinery, ETA Garyville May 13. The barge will be used to continue motor fuel supply to the Florida market.
3. May 7 – Ordered Marathon's Jones Act time charter ATB Legend/750-3, 330,000 bbls, to complete discharging its crude oil cargo and clean tanks for the carriage of clean product, estimated to be load ready May 16/17.
4. May 8 – Chartered the foreign flag Suezmax Ayse C IMO 9874258, approximately 900,000 gross bbls. The Ayse C is being used for storage and potential export unless a waiver is granted.

Since the Colonial pipeline shutdown affected nearly all refiners in the Gulf Coast, Jones Act tonnage availability was limited due to other refiners chartering available tonnage as well as foreign flag tonnage to contain production. With a waiver, Marathon would be able to utilize the Ayse C to supply the U.S. Northeast with diesel, replenishing product that otherwise have been supplied by Colonial.



Marathon Petroleum Company LP


539 South Main Street
Findlay, OH 45840
Main No.: 419.422.2121

The specifics for Marathon's request are as follows:

- Cargo: Clean petroleum product, ULSD, approximately 900,000 gross bbls
- Available for Loading Date: Vessel loaded 12 May through 19 May
- Required Shipping Date: 19 May
- Required Delivery Date: TBN
- Port of Embarkation (POE): Mt. Airy, Louisiana
- Preferred Port of Debarkation (POD): New York Harbor
- Name of Shipper: Marathon International Products LLC
- Consignee: TBN until waiver executed
- Point of Contact: TBN until waiver executed
- Special Instructions: Clean Petroleum Product - ULSD
- Vessel name / IMO number: Ayse C, IMO 9874258
- Commodity: ULSD
- Carrier: KOCH SHIPPING PTE LTD
- Ports and dates of departure and arrival
 - DEPARTURE: MT. AIRY, LOUISIANA
 - ARRIVAL: TBN, NEW YORK

Please contact Marc Bayer, Marine Operations Director at (210) 626-4414 for any additional information needed to consider this waiver request.

Sincerely,


Andy Melfon
Vice President, Clean Products

From: [Bayer, Marc](#)
To: (b)(6); (b)(7)(C)
Cc: [Menefee, Jake E.](#); [Melton, Andy](#)
Subject: Marathon Jones Act Waiver request
Date: Thursday, May 13, 2021 3:21:48 PM

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(b)(6); (b)(7)(C),

Thank you for taking my call this afternoon. As we discussed Marathon is no longer seeking a Jones Act Waiver. We resolved our storage and inventory through other avenues.

Thank you for your time,

Marc

Marc Bayer | Marine Operations Director | **Marathon Petroleum**

O 210 626-4414 M 210 213-6552 F 210 745-4425 email MaBayer@MarathonPetroleum.com

From: [McCullough, David](#)
To: (b)(6); (b)(7)(C)
Cc: (b)(6); (b)(7)(C)
Subject: RE: MT BW EGRET Withdrawal Inquiry
Date: Monday, June 27, 2022 2:46:06 PM
Attachments: [image002.png](#)

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(b)(6); (b)(7)(C),

I can confirm that Gunvor SA withdrew its Jones Act waiver request on Saturday after a decision was not issued. Unfortunately, the vessel had to sail back to Europe, and the Department of Homeland Security asked that we withdraw the request if the vessel was sailing back to Europe. Thank you for your attention to this matter.

Regards,
Dave

David McCullough | Partner | T: +1.202.383.0162

From: (b)(6); (b)(7)(C)
Sent: Monday, June 27, 2022 12:56 PM
To: McCullough, David <DavidMcCullough@eversheds-sutherland.us>
Cc: (b)(6); (b)(7)(C)
Subject: MT BW EGRET Withdrawal Inquiry

EXTERNAL

Good afternoon, Mr. McCullough, I hope this finds you well and in good spirits.

I was informed by DHS OGC last Saturday afternoon that your client had elected to withdraw their request for a Jones Act waiver in the MT BW EGRET matter. If co, you could please confirm by return e-mail, so that we here at CBP can document and close out our files on this matter?

Sincerely yours,



(b)(6); (b)(7)(C)
Chief, Cargo Security, Carriers & Restricted Merchandise Branch
Regulations and Rulings | Office of Trade | CBP

90 K Street NE, 10th floor, Washington, D.C. 20229-1177

(b)(6); (b)(7)(C)

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From: (b)(6); (b)(7)(C)
To: (b)(6); (b)(7)(C)
Subject: FW: Jones Act Waiver Request
Date: Monday, July 11, 2022 12:12:45 PM
Attachments: [Jones Act Waiver Request.pdf](#)

Hello (b)(6); (b)(7)(C),

Here is Gunvor's request, which would be responsive to the FOIA request. They subsequently updated the request; I will find and forward that email next.

(b)(6); (b)(7)(C)

From: McCullough, David <davidmccullough@eversheds-sutherland.com>
Sent: Monday, June 20, 2022 5:06 PM
To: JONES ACT WAIVER REQUEST <jonesactwaiverrequest@cbp.dhs.gov>; (b)(6); (b)(7)(C)
Cc: (b)(6); (b)(7)(C) Kriha, Andy <andykriha@eversheds-sutherland.com>
Subject: Jones Act Waiver Request

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(b)(6); (b)(7)(C),

On behalf of Gunvor SA ("Gunvor" or the "Company"), as described in the attached letter, we respectfully request a limited and specific waiver of section 27 of the Merchant Marine Act, 1920, 46 U.S.C. § 55102 (the "Jones Act"), pursuant to the 46 U.S.C. § 501(b) waiver provisions of the Jones Act to allow for the use of a foreign flag vessel to deliver approximately 13 million gallons of gasoline comprised of 86.25 percent foreign-origin petroleum products and 13.75 percent U.S.-origin naphtha to Savannah, Georgia from Amsterdam.

The attached contains all of the information requested by U.S. Customs and Border Protection (CBP) for the issuance of a waiver. For ease of reference, we have included in bulleted form the information requested on CBP's website:

- Cargo (description, type, weight and dimensions of cargo, units if containerized): 317,895.49 barrels of conventional gasoline
- Name of the vessel that will be used for the proposed transportation: BW Egret
- Vessel Flag/County of Registration: Singapore
- Available for Loading Date (ready for pick-up): Already on the water
- Required Shipping Date (must be shipped by): Already on the water (was shipped on June 10)
- Required Delivery Date: June 22, 2022
- Preferred Port of Lading; Amsterdam (was already shipped from Amsterdam)
- Preferred Port of Unlading: Savannah, Georgia
- Name of Shipper: Gunvor SA
- Name of Consignee: Gunvor SA

- Point of Contact (name, phone, email): David McCullough, 617-721-9683, davidmccullough@eversheds-sutherland.com
- Special Instructions (Hazmat? Other concerns?): The cargo is conventional grade gasoline. It is classified under the appropriate hazard class.
- “A statement that the requester does not have under charter any coastwise-qualified vessel that is: capable of transporting the type of merchandise at issue, and whether or not it is laden with the type of cargo described in the request.” See attached letter.
- “Why granting the waiver for the proposed transportation of cargo would be necessary in the interest of national defense.” See attached letter.

Thank you for your urgent attention to this matter. We are available to discuss at your convenience at the contact information below, above and contained in the attached letter.

Thank you,
David McCullough

David McCullough | Partner

Eversheds Sutherland (US) LLP
The Grace Building, 40th Floor | 1114 Avenue of the Americas, New York, NY 10036-7703, US
T: +1.212.389.5064

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From: [JONES ACT WAIVER REQUEST](#)
To: (b)(6); (b)(7)(C)
Subject: FW: Jones Act Waiver Request
Date: Monday, July 11, 2022 12:13:07 PM
Attachments: [image001.png](#)

Another responsive email.

From: McCullough, David <davidmccullough@eversheds-sutherland.com>
Sent: Monday, June 20, 2022 7:19 PM
To: (b)(6); (b)(7)(C); JONES ACT WAIVER REQUEST
<jonesactwaiverrequest@cbp.dhs.gov>
Cc: (b)(6); (b)(7)(C) Kriha, Andy <andykriha@eversheds-sutherland.com>
Subject: RE: Jones Act Waiver Request

(b)(6); (b)(7)(C),

Thank you for acknowledging receipt. Please note that the last section of the letter describes our confidentiality request – specifically references to “Gunvor SA,” “Gunvor USA LLC,” “Gunvor,” or “BW Egret.” Moreover, our request only pertains to any decision documents where our request might be denied—not to the government sharing the information internally or even in a favorable issuance of a waiver. Therefore, we don’t believe this request should prevent CBP from processing this request and conducting its inter-governmental agency review.

Please let me know if helpful to discuss further.

Thank you,
Dave

David McCullough | Partner | T: +1.202.383.0162

From: (b)(6); (b)(7)(C)
Sent: Monday, June 20, 2022 6:13 PM
To: McCullough, David <DavidMcCullough@eversheds-sutherland.us>; JONES ACT WAIVER REQUEST
<jonesactwaiverrequest@cbp.dhs.gov>
Cc: (b)(6); (b)(7)(C) Kriha, Andy <AndyKriha@eversheds-sutherland.us>
Subject: RE: Jones Act Waiver Request

[EXTERNAL]

Good evening, Mr. McCullough.

I am the Chief of Cargo Security, Carriers, and Restricted Merchandise Branch at US Customs and

Border Protection. This will advise that your message below, inquiring about a possible waiver to the Jones Act, has been received. We will commence processing your request immediately.

Upon review, we note that your request is labeled "CONFIDENTIAL TREATMENT REQUESTED." However, the letter does not specifically identify what information your client considers confidential or why. As provided in 46 U.S.C. § 501, processing your client's waiver request will require CBP to consult with a number of partner government agencies including the Department of Defense and the Maritime Administration in the Department of Transportation, which will be difficult without a clear statement of what information your client requires to protect and why. I would recommend that you review the language of Title 19 C.F.R. § 177.2(b)(7) regarding treatment of confidential information. We encourage you to provide the missing information as soon as possible to ensure timely processing of your request.

Should you have any further questions regarding this matter, please do not hesitate to contact us directly, copying the Jones Act Waiver Request e-mail in-box at: jonesactwaiverrequest@cbp.dhs.gov. Thank you for your interest in U.S. Customs and Border Protection.

Sincerely yours,



(b)(6); (b)(7)(C)

Chief, Cargo Security, Carriers & Restricted Merchandise Branch
Regulations and Rulings | Office of Trade | CBP

90 K Street NE, 10th floor, Washington, D.C. 20229-1177

Desk: **(b)(6); (b)(7)(C)** | Fax: **(b)(6); (b)(7)(C)**

Mobile: **(b)(6); (b)(7)(C)**

Email: **(b)(6); (b)(7)(C)**

From: McCullough, David <davidmccullough@eversheds-sutherland.com>

Sent: Monday, June 20, 2022 5:06 PM

To: JONES ACT WAIVER REQUEST <jonesactwaiverrequest@cbp.dhs.gov>; **(b)(6); (b)(7)(C)**

Cc: **(b)(6); (b)(7)(C)** Kriha, Andy <andykriha@eversheds-sutherland.com>

Subject: Jones Act Waiver Request

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(b)(6); (b)(7)(C),

On behalf of Gunvor SA (“Gunvor” or the “Company”), as described in the attached letter, we respectfully request a limited and specific waiver of section 27 of the Merchant Marine Act, 1920, 46 U.S.C. § 55102 (the “Jones Act”), pursuant to the 46 U.S.C. § 501(b) waiver provisions of the Jones Act to allow for the use of a foreign flag vessel to deliver approximately 13 million gallons of gasoline comprised of 86.25 percent foreign-origin petroleum products and 13.75 percent U.S.-origin naphtha to Savannah, Georgia from Amsterdam.

The attached contains all of the information requested by U.S. Customs and Border Protection (CBP) for the issuance of a waiver. For ease of reference, we have included in bulleted form the information requested on CBP’s website:

- Cargo (description, type, weight and dimensions of cargo, units if containerized): 317,895.49 barrels of conventional gasoline
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- Preferred Port of Lading: Amsterdam (was already shipped from Amsterdam)
- Preferred Port of Unlading: Savannah, Georgia
- Name of Shipper: Gunvor SA
- Name of Consignee: Gunvor SA
- Point of Contact (name, phone, email): David McCullough, 617-721-9683, davidmccullough@eversheds-sutherland.com
- Special Instructions (Hazmat? Other concerns?): The cargo is conventional grade gasoline. It is classified under the appropriate hazard class.
- “A statement that the requester does not have under charter any coastwise-qualified vessel that is: capable of transporting the type of merchandise at issue, and whether or not it is laden with the type of cargo described in the request.” See attached letter.
- “Why granting the waiver for the proposed transportation of cargo would be necessary in the interest of national defense.” See attached letter.

Thank you for your urgent attention to this matter. We are available to discuss at your convenience at the contact information below, above and contained in the attached letter.

Thank you,
David McCullough

David McCullough | Partner

Eversheds Sutherland (US) LLP
The Grace Building, 40th Floor | 1114 Avenue of the Americas, New York, NY 10036-7703, US
T: +1.212.389.5064

[Email](#) | [Biography](#) | [vCard](#)
www.eversheds-sutherland.com

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From: (b)(6); (b)(7)(C)
To: (b)(6); (b)(7)(C)
Subject: FW: Jones Act Waiver Request
Date: Monday, July 11, 2022 12:14:45 PM
Attachments: [image001.png](#)
[image002.png](#)
[FW DEAL RECAP P66 to Gunvor.msg](#)
[Prompt close-out CZQ22TS00006 Gunvor Naphta 5 100mt FOB Amsterdam 7-9 June.msg](#)
[DEF4 FIG CoO.pdf](#)

(b)(6); (b)(7)(C)

This email contains Gunvor's revised JA waiver request, which is also like relevant to the FOIA request.

(b)(6); (b)(7)(C)

From: McCullough, David <davidmccullough@eversheds-sutherland.com>
Sent: Friday, June 24, 2022 10:27 AM
To: (b)(6); (b)(7)(C); JONES ACT WAIVER REQUEST
<jonesactwaiverrequest@cbp.dhs.gov>
Cc: Kriha, Andy <andykriha@eversheds-sutherland.com>
Subject: RE: Jones Act Waiver Request

(b)(6); (b)(7)(C):

Below in red are Gunvor's responses to your questions, and we have attached supporting documentation. Please note that if Gunvor has not yet received a decision on its waiver request by the end of today, it will need to send the vessel elsewhere (a non-US destination) as a matter of commercial necessity. Please let me know if any additional information can be provided. Thank you for your attention. Regards, David McCullough

- Please provide documentation that establishes whether the U.S.-origin naphtha was entered and duty-paid in the Netherlands, or rather stored in-bond.
 - If the U.S.-origin naphtha was entered and duty-paid in the Netherlands, please provide entry summary and duty payment documentation.
 - **Gunvor Response:** The naphtha was stored in bond by Phillips 66 in Amsterdam, no duties paid, and under T1 status (see email attached entitled "FW: DEAL RECAP: P66 to Gunvor"). Given that the Amsterdam, Rotterdam, Antwerp ("ARA") area is the hub of the European petroleum trading markets and product is shipped globally from the ARA, this is commonplace for product stored in the ARA.
- Can Gunvor provide any information from Phillips 66 regarding the shipment or sale of the naphtha to the entity in the Netherlands?
 - For example, to whom was the product sold and what were the terms of sale and/or storage or other custody arrangement for the product?
 - **Gunvor Response:** Per the attached deal recap (see first attachment) Gunvor purchased approximately 5,100 metric tons of the naphtha from "Phillips 66 TS

Limited" "FOB Amsterdam" for June 7-9 load.

- Were any processing or manufacturing actions applied to the U.S.-origin naphtha while in storage ashore in the Netherlands which could have resulted in a new and different product?
 - If so, how were they documented?
 - Gunvor Response: No processing or manufacturing actions were applied to the naphtha while it was in storage.
- Did Gunvor purchase the U.S.-origin naphtha directly from Phillips 66 or through a brokerage?
 - Gunvor Response: OilBrokerage brokered the deal, but title transfer was directly from Phillips 66 to Gunvor SA.
 - If purchased through a brokerage, please provide the sales documentation for the transfers of ownership between all parties.
 - Gunvor Response: N/A
 - Please provide all documents concerning the purchase by Gunvor of the naphtha from the in-tank storage in Amsterdam. CBP expects this to show the date of purchase, from whom it was purchased, and the description of the merchandise purchased, including its country of origin. If it does not show this information, please explain why the commercial documents do not reflect this (e.g., industry standard or otherwise).
 - Gunvor Response: Please see the bottom of the email attached entitled "FW: DEAL RECAP: P66 to Gunvor" (first attachment) and the email from Phillips 66 entitled "Prompt close-out CZQ22TS00006 Gunvor Naphta 5_100mt FOB Amsterdam 7-9 June" confirming the transaction (second attachment). This constitutes the commercial documents between the parties and we believe this sets forth all information you are requesting.
- How did Gunvor determine that the U.S.-origin naphtha arrived in the Netherlands on the vessel *DEE4 FIG* and that its U.S. port of loading was Freeport, Texas?
 - Gunvor Response: Please see the attached Certificate of Origin (third attachment) provided by Phillips 66 to Gunvor stating the country of origin, the vessel that exported the cargo and the load port.
 - Please provide the documentation in Gunvor's or an agent's possession that establishes this.
 - Gunvor Response: Please see the attached certificate of origin (third attachment).
 - Please provide information establishing when and how Gunvor learned that the naphtha originated from a U.S. port.
 - Gunvor Response: At execution of the transaction (June 7), Gunvor received the attached deal recap (first attachment) that stated the naphtha was of US origin. While Gunvor as a company had constructive knowledge of the country of origin of the naphtha prior to loading, individuals within the company who analyze Jones Act compliance did not have actual knowledge of the country of origin until after loading (approximately June 17) because of the supply dislocations in Europe caused the unusual circumstance of using US-origin product in its blending. Gunvor had not historically sourced US-origin product in its blending operations in Europe for cargoes bound for the United States. This is described in greater detail in Gunvor's waiver request. On a going

forward basis, these issues are now analyzed by Gunvor in Europe and if US-origin product is used in blending, all blending will take place on-shore.

- With reference to the spreadsheet that was provided with the request for a waiver (Attachment C), what is the origin of the information on that spreadsheet and who created the spreadsheet?
 - Gunvor Response: The terminal in Europe created the spreadsheet as it allows the terminal to keep track of the origin of the products in its system. The terminal is an independent company, not affiliated with either Gunvor or Phillips 66.
- Please provide any documentation in Gunvor's or an agent's possession prior to the loading of the commodity on the vessel that describes the commodities purchased.
 - Gunvor Response: Please see the deal recap (first attachment) and Attachment C to the Waiver Request. As stated above, while Gunvor as a company had constructive knowledge of the country of origin of the naphtha prior to loading, individuals within the company who analyze Jones Act compliance did not have actual knowledge of the country of origin until after loading because of the supply dislocations in Europe caused the unusual circumstances of using US-origin product in its blending. Gunvor had not historically sourced US-origin product in its blending operations in Europe for cargoes bound for the United States. This is described in greater detail in Gunvor's waiver request. On a going forward basis, these issues are now analyzed by Gunvor in Europe and if US-origin product is used in blending, all blending will take place on-shore.
- What steps were taken by Gunvor to determine the country of origin of the naphtha prior to its loading on the *BW Egret*?
 - Gunvor Response: See response above.
- When did Gunvor determine that the U.S.-origin naphtha had been mixed into the gasoline currently laden aboard the vessel *BW Egret*?
 - Gunvor Response: See response above.
- What affirmative steps did Gunvor take to ensure that U.S.-origin blendstocks were not blended aboard vessels?
 - Gunvor Response: See responses above.

David McCullough | Partner | T: +1.202.383.0162

From: (b)(6); (b)(7)(C)

Sent: Thursday, June 23, 2022 7:05 PM

To: McCullough, David <DavidMcCullough@eversheds-sutherland.us>; JONES ACT WAIVER REQUEST <jonesactwaiverrequest@cbp.dhs.gov>

Cc: Kriha, Andy <AndyKriha@eversheds-sutherland.us>

Subject: RE: Jones Act Waiver Request

Importance: High

[EXTERNAL]

Good evening, Mr. McCullough;

Thank you for your kind response, Mr. McCullough. We appreciate it. In order to assist CBP with the processing of your client's waiver request, please forward the questions below to your client, requesting their swift and complete response to each. In the interest of speedy processing of your request, I am forwarding the questions to you by e-mail, rather than by formal memorandum.

Questions and Requests for information from Gunvor SA to assist CBP to determine Jones Act applicability regarding the waiver request submitted on behalf of Gunvor SA:

- Please provide documentation that establishes whether the U.S.-origin naphtha was entered and duty-paid in the Netherlands, or rather stored in-bond.
 - If the U.S.-origin naphtha was entered and duty-paid in the Netherlands, please provide entry summary and duty payment documentation.
- Can Gunvor provide any information from Phillips 66 regarding the shipment or sale of the naphtha to the entity in the Netherlands?
 - For example, to whom was the product sold and what were the terms of sale and/or storage or other custody arrangement for the product?
- Were any processing or manufacturing actions applied to the U.S.-origin naphtha while in storage ashore in the Netherlands which could have resulted in a new and different product?
 - If so, how were they documented?
- Did Gunvor purchase the U.S.-origin naphtha directly from Phillips 66 or through a brokerage?
 - If purchased through a brokerage, please provide the sales documentation for the transfers of ownership between all parties.
 - Please provide all documents concerning the purchase by Gunvor of the naphtha from the in-tank storage in Amsterdam. CBP expects this to show the date of purchase, from whom it was purchased, and the description of the merchandise purchased, including its country of origin. If it does not show this information, please explain why the commercial documents do not reflect this (*e.g.*, industry standard or otherwise).
- How did Gunvor determine that the U.S.-origin naphtha arrived in the Netherlands on the vessel *DEE4 FIG* and that its U.S. port of loading was Freeport, Texas?
 - Please provide the documentation in Gunvor's or an agent's possession that establishes this.
 - Please provide information establishing when and how Gunvor learned that the naphtha originated from a U.S. port.
- With reference to the spreadsheet that was provided with the request for a waiver (Attachment C), what is the origin of the information on that spreadsheet and who created the spreadsheet?
- Please provide any documentation in Gunvor's or an agent's possession prior to the loading of the commodity on the vessel that describes the commodities purchased.
- What steps were taken by Gunvor to determine the country of origin of the naphtha prior to its loading on the *BW Egret*?
- When did Gunvor determine that the U.S.-origin naphtha had been mixed into the gasoline currently laden aboard the vessel *BW Egret*?
- What affirmative steps did Gunvor take to ensure that U.S.-origin blendstocks were not blended aboard vessels?

We look forward to receipt of your client's responses. If you should have any further questions, please do not hesitate to contact me directly.

Sincerely yours,



(b)(6); (b)(7)(C)

Chief, Cargo Security, Carriers & Restricted Merchandise Branch
Regulations and Rulings | Office of Trade | CBP

90 K Street NE, 10th floor, Washington, D.C. 20229-1177

Desk: (b)(6); (b)(7)(C) | Fax: (b)(6); (b)(7)(C)

Mobile: (b)(6); (b)(7)(C)

Email: (b)(6); (b)(7)(C)

From: McCullough, David <davidmccullough@eversheds-sutherland.com>

Sent: Thursday, June 23, 2022 3:22 PM

To: (b)(6); (b)(7)(C); JONES ACT WAIVER REQUEST
<jonesactwaiverrequest@cbp.dhs.gov>

Cc: Kriha, Andy <andykriha@eversheds-sutherland.com>

Subject: RE: Jones Act Waiver Request

(b)(6); (b)(7)(C),

Thank you for the update, and we appreciate the attention to our request. Yes, we will respond ASAP as soon as we receive your requests for information.

Regarding your question, the naphtha was shipped by Phillips 66 from Freeport, Texas where Freeport has its own terminal and docks to support its refining and export operations. Phillips 66 is a completely unrelated company to Gunvor. As a result, Gunvor does not have access to those docks, and cannot return the product to the same coastwise point.

Please also note that, PADD 3 is a refined product distribution point—not a refined product supply point. As a result, PADD 3 is not under the same gasoline supply issues as PADD 1 – meaning tankage to store Gunvor's product would be an issue as well as commercial demand for the product. For example, PADD 3 gasoline stocks are approximately the same as where they were this time last year. In contrast, PADD 1 gasoline stocks are down 25% from where they were this time last year.

I am available to answer any questions either from you or directly from others in the federal government.

Regards,

David McCullough | Partner | T: +1.202.383.0162

From: (b)(6); (b)(7)(C)

Sent: Thursday, June 23, 2022 1:49 PM

To: McCullough, David <DavidMcCullough@eversheds-sutherland.us>; JONES ACT WAIVER REQUEST <jonesactwaiverrequest@cbp.dhs.gov>

Cc: Kriha, Andy <AndyKriha@eversheds-sutherland.us>

Subject: RE: Jones Act Waiver Request

Importance: High

[EXTERNAL]

Good afternoon, Mr. McCullough;

I wanted to circle back to you with a status update regarding your client's request for a Jones Act Waiver. CBP and our partner government agencies are preparing a consolidated request for more information to facilitate processing the request. I hope to have that out to you for consultations with your client as soon as possible; perhaps as early as COB today. When you receive it, please give it the swiftest possible turnaround you can in order to expedite processing.

One question I have is whether or not your client has contemplated diverting the vessel to the original point of lading of the naptha at Freeport, Texas? As near as I can tell, transporting the gasoline to the point of original lading of the naptha would avoid a Jones Act violation, and your client would be able to transport the gasoline anywhere within the U.S. Is that under consideration?

I will forward the requests for information as soon as I have them in hand. Until then, if you have any further questions, please do not hesitate to contact me directly.

Sincerely yours,



(b)(6); (b)(7)(C)

Chief, Cargo Security, Carriers & Restricted Merchandise Branch
Regulations and Rulings | Office of Trade | CBP

90 K Street NE, 10th floor, Washington, D.C. 20229-1177

Desk: (b)(6); (b)(7)(C) | Fax: (b)(6); (b)(7)(C)

Mobile: (b)(6); (b)(7)(C)

Email: (b)(6); (b)(7)(C)

From: McCullough, David <davidmccullough@eversheds-sutherland.com>
Sent: Wednesday, June 22, 2022 2:32 PM
To: (b)(6); (b)(7)(C) >; JONES ACT WAIVER REQUEST
<jonesactwaiverrequest@cbp.dhs.gov>
Cc: (b)(6); (b)(7)(C) ; Kriha, Andy <andykriha@eversheds-sutherland.com>
Subject: RE: Jones Act Waiver Request

(b)(6); (b)(7)(C),

I am writing to check-in on the status of our request and whether we can provide any additional information or if it would be helpful to speak with someone at another agency as part of the interagency review?

Thank you for your attention to this matter.

Thank you,

David McCullough | Partner | T: +1.202.383.0162

From: McCullough, David <davidmccullough@eversheds-sutherland.com>
Sent: Monday, June 20, 2022 5:06 PM
To: JONES ACT WAIVER REQUEST <jonesactwaiverrequest@cbp.dhs.gov>; (b)(6); (b)(7)(C) >
Cc: (b)(6); (b)(7)(C) ; Kriha, Andy <andykriha@eversheds-sutherland.com>
Subject: Jones Act Waiver Request

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(b)(6); (b)(7)(C),

On behalf of Gunvor SA (“Gunvor” or the “Company”), as described in the attached letter, we respectfully request a limited and specific waiver of section 27 of the Merchant Marine Act, 1920, 46 U.S.C. § 55102 (the “Jones Act”), pursuant to the 46 U.S.C. § 501(b) waiver provisions of the Jones Act to allow for the use of a foreign flag vessel to deliver approximately 13 million gallons of gasoline comprised of 86.25 percent foreign-origin petroleum products and 13.75 percent U.S.-origin naphtha to Savannah, Georgia from Amsterdam.

The attached contains all of the information requested by U.S. Customs and Border Protection (CBP) for the issuance of a waiver. For ease of reference, we have included in bulleted form the information requested on CBP’s website:

- Cargo (description, type, weight and dimensions of cargo, units if containerized): 317,895.49 barrels of conventional gasoline
- Name of the vessel that will be used for the proposed transportation: BW Egret

- Vessel Flag/County of Registration: Singapore
- Available for Loading Date (ready for pick-up): Already on the water
- Required Shipping Date (must be shipped by): Already on the water (was shipped on June 10)
- Required Delivery Date: June 22, 2022
- Preferred Port of Lading: Amsterdam (was already shipped from Amsterdam)
- Preferred Port of Unlading: Savannah, Georgia
- Name of Shipper: Gunvor SA
- Name of Consignee: Gunvor SA
- Point of Contact (name, phone, email): David McCullough, 617-721-9683, davidmccullough@eversheds-sutherland.com
- Special Instructions (Hazmat? Other concerns?): The cargo is conventional grade gasoline. It is classified under the appropriate hazard class.
- “A statement that the requester does not have under charter any coastwise-qualified vessel that is: capable of transporting the type of merchandise at issue, and whether or not it is laden with the type of cargo described in the request.” See attached letter.
- “Why granting the waiver for the proposed transportation of cargo would be necessary in the interest of national defense.” See attached letter.

Thank you for your urgent attention to this matter. We are available to discuss at your convenience at the contact information below, above and contained in the attached letter.

Thank you,
David McCullough

David McCullough | Partner

Eversheds Sutherland (US) LLP
The Grace Building, 40th Floor | 1114 Avenue of the Americas, New York, NY 10036-7703, US
T: +1.212.389.5064

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GEORGE E. WARREN LLC

Energy



3001 Ocean Drive, Suite 203
Vero Beach, Florida 32963-1953
Telephone (772) 778-7100
Fax (772) 778-7171

May 12, 2021

(b)(6); (b)(7)(C)

Chief, Cargo Security, Carriers and Restricted Merchandise Branch
Regulations and Rulings Directorate
Office of Trade
U.S. Customs and Border Protection
VIA EMAIL

RE: Jones Act Waiver Request 2


(b)(6); (b)(7)(C)

George E. Warren LLC respectfully asks for a Jones Act Waiver pursuant to 46 USC 501(b) for the reason of national defense. We are requesting a waiver of the Jones Act in order to assist with the shortage of fuel in the Southeast United States resulting from the ransomware attack on the Colonial Pipeline. George E Warren is capable of moving motor fuel from (b)(4) (b)(4) and (b)(4) by ship in order to serve domestic markets that will continue to experience supply shortages without the waiver due to limited capacity to otherwise deliver large quantities of fuel. We have sought and have not been able to identify US-flagged vessels capable of delivering these cargoes and have contacted MARAD.

Due to the worsening situation in the Southeast US it is in the national interest that the Jones Act be waived in this instance so that critical fuel supplies can reach consumers that are increasingly facing long lines, rationing and stations that have exhausted available fuel supply. Without the waiver the decreasing supply of gasoline, diesel and jet fuel will subject our country to additional economic harm and a worsening national security standing.

- Cargo : (b)(4)
- (b)(4)
- Available for Loading Date (ready for pick-up): (b)(4)
- Required Shipping Date (must be shipped by): (b)(4)
- Required Delivery Date: (b)(4)
- Preferred Port of Embarkation (POE): (b)(4)
- Preferred Port of Debarkation (POD): (b)(4)
- Name of Shipper: George E. Warren LLC
- Name of Consignee: (b)(4)
- Point of Contact (name, phone, email): Michael Barbosa, 772-778-7179, michael.barbosa@gewarren.com; Chris Curry, (b)(6) chris.curry@gewarren.com; Darren Sylvia, 772-778-7114, Darren.sylvia@gewarren.com
- Special Instructions (Hazmat? Other concerns?): All operations are anticipated to be normal course of business at this time

Thank You and Regards,



Michael Barbosa
George E. Warren LLC

From: (b)(6); (b)(7)(C)
To: (b)(6); (b)(7)(C)
Cc: (b)(6); (b)(7)(C)
Subject: Waiver Requests Withdrawn
Date: Thursday, May 13, 2021 3:15:36 PM

ALCON:

Apologies for the group email, but I figured you would want this news quickly considering we have been working around the clock on these requests. The following waiver requests have been withdrawn:

Marathon Petroleum

George Warren 1

George Warren 2

Thank you,

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

Chief, Cargo Security, Carriers and Restricted Merchandise Branch
Regulations and Rulings Directorate
Office of Trade
U.S. Customs and Border Protection

(b)(6); (b)(7)(C)

From: (b)(6); (b)(7)(C)
To: (b)(6); (b)(7)(C); (b)(6); (b)(7)(C)
Cc: (b)(6); (b)(7)(C)
Subject: RE: Jones Act Waiver Request 1GEO WARREN 1 WITHDRAWN
Date: Thursday, May 13, 2021 3:12:33 PM
Attachments: [image001.png](#)

ALL CON: I was just telephoned by (b)(6); (b)(7)(C) from MARATHON who told me that they ALSO will be withdrawing their waiver request. I asked him to send me an email memorializing same.



(b)(6); (b)(7)(C)
Attorney-Advisor, Cargo Security, Carriers & Restricted Merchandise Branch
Regulations & Rulings | OT | CBP
90 K Street NE, Washington, D.C. 20229-1177

(b)(6); (b)(7)(C)

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From: (b)(6); (b)(7)(C)
Sent: Thursday, May 13, 2021 3:06 PM
To: (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C)
Cc: (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C)
(b)(6); (b)(7)(C)
Subject: FW: Jones Act Waiver Request 1GEO WARREN 1 WITHDRAWN

GEO WARREN 1 WITHDRAWN

From: JONES ACT WAIVER REQUEST <jonesactwaiverrequest@cbp.dhs.gov>
Sent: Thursday, May 13, 2021 2:11 PM
To: (b)(6); (b)(7)(C)
Subject: FW: Jones Act Waiver Request 1

From: Michael Barbosa <michael.barbosa@gewarren.com>
Sent: Thursday, May 13, 2021 6:09:28 PM (UTC+00:00) Monrovia, Reykjavik
To: JONES ACT WAIVER REQUEST <jonesactwaiverrequest@cbp.dhs.gov>
Cc: Darren Sylvia <darren.sylvia@gewarren.com>; Kirkham, Brandon W. (brandon.kirkham@faegredrinker.com) <brandon.kirkham@faegredrinker.com>
Subject: FW: Jones Act Waiver Request 1

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and/or trust the sender. If you feel this is a suspicious-looking email, please report by using the Report Phish button option.

(b)(6); (b)(7)(C)

George E. Warren LLC respectfully asks to withdraw the attached Jones Act waiver request. Please feel free to contact me should you need any further information.

Best Regards,
Mike

From: Michael Barbosa
Sent: Wednesday, May 12, 2021 2:02 PM
To: 'JonesActWaiverRequest@cbp.dhs.gov'
Cc: Darren Sylvia; Kirkham, Brandon W. (brandon.kirkham@faegredrinker.com)
Subject: Jones Act Waiver Request 1

(b)(6); (b)(7)(C)

Please find the attached letter from George E. Warren LLC. Please advise if any further information is needed.

Best Regards,
Mike

Michael Barbosa
George E. Warren Corporation
3001 Ocean Drive, Suite 203
Vero Beach, Florida 32963
Phone: (772)778-7179
Cell: (b)(6); (b)(7)(C)
ICE: mbarbosa3

GEORGE E. WARREN LLC

Energy



3001 Ocean Drive, Suite 203
Vero Beach, Florida 32963-1953
Telephone (772) 778-7100
Fax (772) 778-7171

May 12, 2021

(b)(6); (b)(7)(C)

Chief, Cargo Security, Carriers and Restricted Merchandise Branch
Regulations and Rulings Directorate
Office of Trade
U.S. Customs and Border Protection
VIA EMAIL

RE: Jones Act Waiver Request 1

(b)(6); (b)(7)(C)

George E. Warren LLC respectfully asks for a Jones Act Waiver pursuant to 46 USC 501(b) for the reason of national defense. We are requesting a waiver of the Jones Act in order to assist with the shortage of fuel in the Southeast United States resulting from the ransomware attack on the Colonial Pipeline. George E Warren is capable of moving motor fuel from (b)(4) (b)(4) and (b)(4) by ship in order to serve domestic markets that will continue to experience supply shortages without the waiver due to limited capacity to otherwise deliver large quantities of fuel. We have sought and have not been able to identify US-flagged vessels capable of delivering these cargoes and have contacted MARAD.

Due to the worsening situation in the Southeast US it is in the national interest that the Jones Act be waived in this instance so that critical fuel supplies can reach consumers that are increasingly facing long lines, rationing and stations that have exhausted available fuel supply. Without the waiver the decreasing supply of gasoline, diesel and jet fuel will subject our country to additional economic harm and a worsening national security standing.

Member - CME Group

- Cargo : (b)(4)
- Available for Loading Date (ready for pick-up): (b)(4)
- Required Shipping Date (must be shipped by): (b)(4)
- Required Delivery Date: (b)(4)
- Preferred Port of Embarkation (POE): (b)(4)
- Preferred Port of Debarkation (POD): (b)(4)
- Name of Shipper: George E. Warren LLC
- Name of Consignee: (b)(4)
- Point of Contact (name, phone, email): Michael Barbosa, 772-778-7179, michael.barbosa@gewarren.com; Michael Bloch, 772-778-7129, mike.bloch@gewarren.com ; Darren Sylvia, 772-778-7114, Darren.sylvia@gewarren.com
- Special Instructions (Hazmat? Other concerns?): All operations are anticipated to be normal course of business at this time

Thank You and Regards,



Michael Barbosa
George E. Warren LLC

From: JONES ACT WAIVER REQUEST
 To: (b)(6); (b)(7)(C)
 Cc: (b)(6); (b)(7)(C)
 Subject: FW: Jones Act waiver
 Date: Wednesday, May 12, 2021 1:32 07 PM
 Attachments: Jet A - Turbine Fuel testing document.pdf
 ULSD No.2 (MVRNL15)TESTING DOCUMENT.pdf
 Conventional Gasoline - Midgrade 90.pdf
 (b)(4) Q88 10May2021.pdf
 (b)(6); (b)(7)(C).vcf

We have received waiver number 2 CITGO. Please prepare the inter-agency letters for my signature so that we may send them out within the hour. Thanks!

From: (b)(6); (b)(7)(C)
 Sent: Wednesday, May 12, 2021 1:00 PM
 To: JONES ACT WAIVER REQUEST <jonesactwaiverrequest@cbp.dhs.gov>
 Cc: (b)(6); (b)(7)(C)
 (b)(6); (b)(7)(C)
 Subject: FW: Jones Act waiver

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. If you feel this is a suspicious-looking email, please report by using the Report Phish button option.

Good morning (b)(6).

Thank you for providing guidance to (b)(6); (b)(7)(C) on 5/11/21 regarding the Jones Act Waiver process. CITGO reached out to the DOE, specifically (b)(6); (b)(7)(C) who is performing an analysis, has a strategy and recommended CITGO to submit for a Jones Act waiver. She also directed us to the website with the Jones Act Waiver Procedure.

As suggested, we also reached out to MARAD on 5/11/21 and again on 5/12/21 but have not received any communication back from MARAD. CITGO has been working our normal avenues for obtaining a U.S. Flag vessel since Saturday May 8, 2021 as more information came out on the Colonial Pipeline outage. The information we have received from the U.S. Flag vessel brokers showed there were no prompt U.S. Flag vessels available to meet our needs of keeping the refinery in containment (vessel needed by (b)(4) to load (b)(4)) at reduced rates. Due to the Colonial outage our (b)(4) is full of refined products and has reduced rates to manage containment. The Foreign Flag vessel chartered by CITGO on Monday 5/10/21 was to help keep the refinery in containment so we could continue to run at reduced rates and not be forced to shut down the refinery.

For additional clarity and transparency, CITGO does have two U.S. Flag vessels under term charter ((b)(4)) that are critical to our operation and fully utilized supplying Florida. There is no alternative method to supply Florida therefore we cannot divert these vessels to the North East. These vessels are moving at full speed to help contain the refined products being produced at minimum rates.

A Jones Act Waiver will allow CITGO to load on (b)(4) which is critical to containment of the (b)(4). The delivery to CITGO's (b)(4) in (b)(4) will help supply the shortage in the North East. If a waiver is not granted, CITGO will likely sell these products into a foreign market which does not seem to be in the best interests of the U.S. given the fuel shortages on the East Coast. It is our estimate that when Colonial Pipeline does restart, it is a potential that they are not able to restart at normal rates, thus we expect it will take several weeks after startup for the system to return to a normal balance.

CITGO is formally requesting a Jones Act Waiver for the MT Forres Park vessel. Please call if you have any questions or concerns.

- Cargo (description, type, weight and dimensions of cargo, units if containerized):
 - Foreign Flag Vessel MT Forres Park (b)(4) Q88 Attached
 - Load plan (b)(4) of Jet Fuel, (b)(4) of Gasoline and (b)(4) of Ultra Low Sulfur Diesel
 - Weight of vessel is (b)(4) and product is (b)(4) for a total weight of (b)(4)

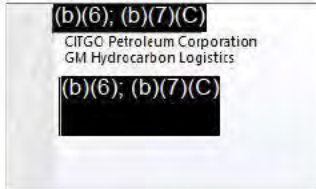
IMO	(b)(4)	
Flag	(b)(4)	
LOA	(b)(4)	Meters
Beam	(b)(4)	Meters
BCM		Meters
SCM		Meters
F-MPM		Meters
A-MPM		Meters
PMB		Meters
Air Draft		Meters
Max MH		Meters
Helipad	No	

- Available for Loading Date (ready for pick-up):
 - (b)(4) to load in order to keep the refinery in containment
- Required Shipping Date (must be shipped by):
 - The (b)(4) will take (b)(4)
- Required Delivery Date:
 - The (b)(4) will take (b)(4)
- Preferred Port of Embarkation (POE):
 - CITGO (b)(4)
- Preferred Port of Debarcation (POD):
 - CITGO (b)(4)

- Name of Shipper:
 - CITGO (b)(4)
- Name of Consignee:
 - CITGO (b)(4)
- Point of Contact (name, phone, email):
 - (b)(6); (b)(7)(C), Office (b)(6); (b)(7)(C) or Cel (b)(6); (b)(7)(C)
- Special Instructions (Hazmat? Other concerns?):
 - [Material Safety Data Sheets Attached](#)

Thanks,

(b)(6); (b)(7)(C)

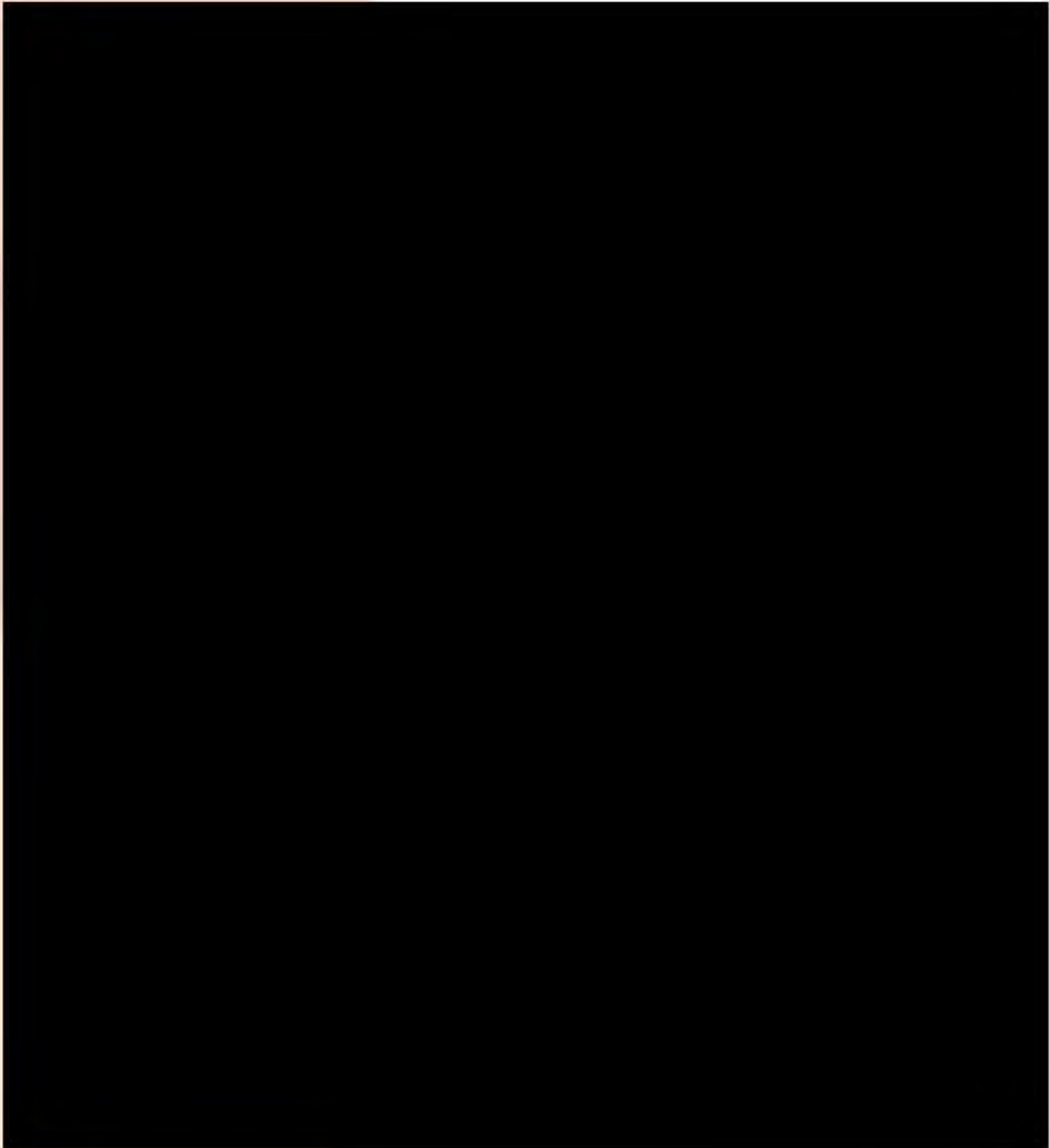


CITGO PETROLEUM CORPORATION
TURBINE A /JET A (INCLUDING FLORIDA)
TERMINAL TANK SPECIFICATIONS [1] [2] [3]
Specification revised: May 15, 2019



Property	Units	Notes	ASTM Method [4]	Minimum	Maximum
(b)(4)					

CITGO PETROLEUM CORPORATION
TURBINE A /JET A (INCLUDING FLORIDA)
TERMINAL TANK SPECIFICATIONS [1] [2] [3]
Specification revised: May 15, 2019



CITGO PETROLEUM CORPORATION
Ultra-Low Sulfur #2 Diesel (MVNRLM15)

Motor Vehicle Non Road Locomotive Marine

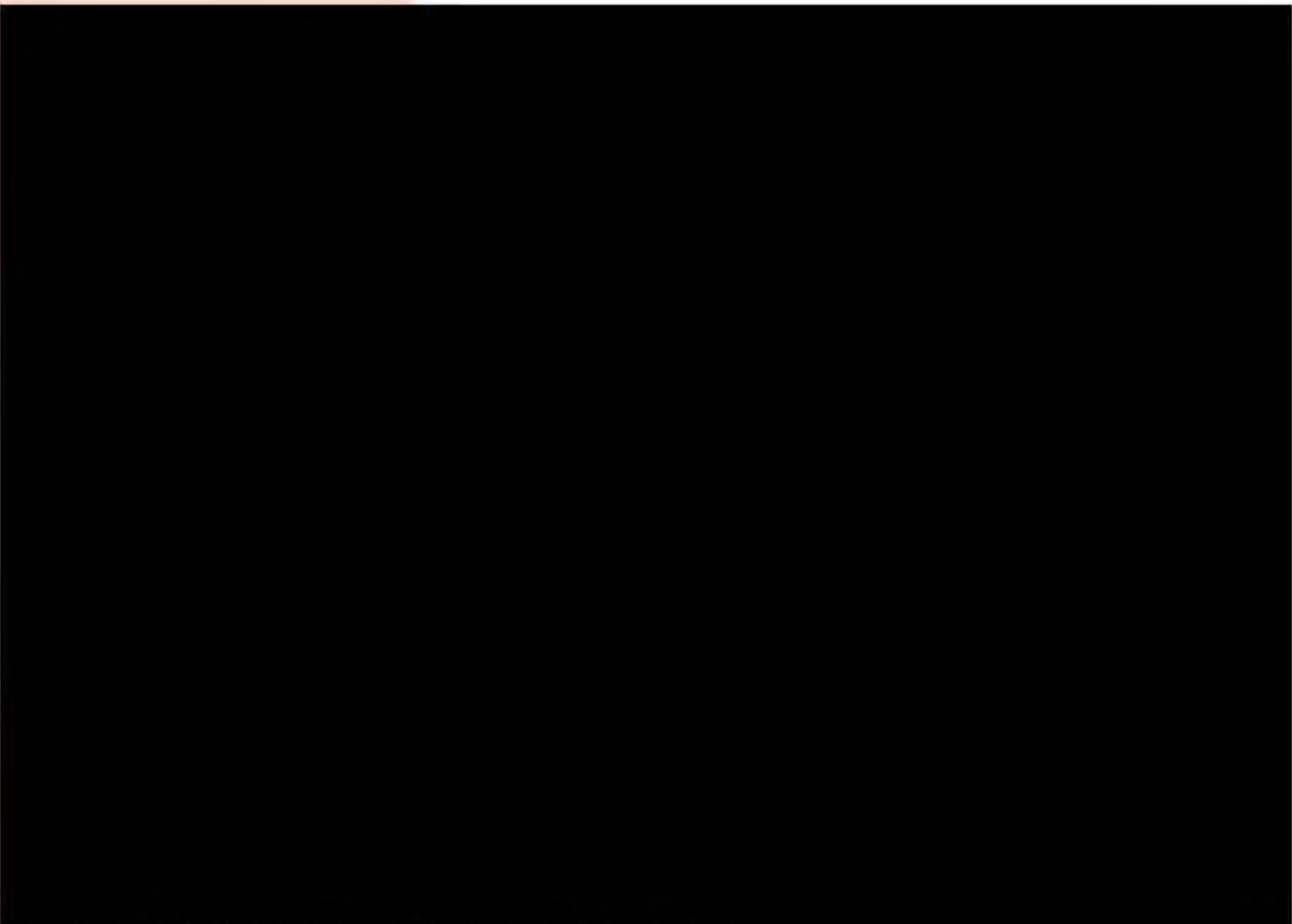
TERMINAL TANK SPECIFICATION [1] [2]

Specification revised: February 16, 2018



Property	Units	Notes	ASTM Method [3]	Minimum	Maximum
(b)(4)					

CITGO PETROLEUM CORPORATION
Ultra-Low Sulfur #2 Diesel (MVNRLM15)
Motor Vehicle Non Road Locomotive Marine
TERMINAL TANK SPECIFICATION [1][2]
Specification revised: February 16, 2018



8. This method does not apply to those fuels containing Cetane improver.
9. Lubricity and conductivity specifications are applicable at the point of delivery from the terminal truck rack. These properties may be met through the use of an additive.

CITGO PETROLEUM CORPORATION
Conventional Unleaded Gasoline – 90 Octane (AKI)

(Contains no ethanol)

TERMINAL RACK SPECIFICATION [1]

Specification revised: April 14, 2018



Property	Units	Notes	ASTM Method [2]	Minimum	Maximum
(b) (4)					



Volatility Specifications [7]




percent by volume) may be present due to engineering design limitations.

- Conventional Unleaded Gasoline 90 Octane (AKI) sold from the CITGO (b)(4) may contain residual ethanol up to 1.0 percent by volume.
6. The mercaptan sulfur specification may be waived if the fuel is considered sweet by the Doctor Test (ASTM D4952).
 7. The specifications listed in the Volatility Specifications table will meet the requirements of the appropriate seasonal and geographical volatility class as specified in Table 4 of ASTM 4814. These volatility properties may not coincide with the RVP requirements specified by regulatory agencies for certain months of the year.

(b)(4)

(b)(4)



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(b)(4)



Homeland
Security

May 13, 2021

(b)(6); (b)(7)(C)

CITGO Petroleum Corporation
GM Hydrocarbon Logistics
1293 Eldridge Parkway
Houston, TX 77077

Dear (b)(6); (b)(7)(C)

This is in response to your correspondence of May 12, 2021, wherein you requested a waiver of the Jones Act to allow the foreign-flagged (b)(4) to transport approximately (b)(4) of jet fuel, (b)(4) of gasoline, and (b)(4) of ultra-low sulfur diesel, to be loaded beginning on (b)(4) and shipped on (b)(4) from (b)(4) (b)(4) arriving on (b)(4). This request is intended to offset immediate critical shortages of fuel supplies in certain regions and current disruptions in refining capacity due to the shutdown of the Colonial Pipeline. Without a waiver, (b)(4) could not legally engage in this transportation activity under current law.

As you know, the Jones Act, 46 U.S.C. § 55102, provides, in part, that no merchandise shall be transported between points in the United States embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any vessel other than a vessel built in, documented under the laws of, and owned by citizens of the United States. The coastwise laws, including the Jones Act, generally apply to points in the territorial sea, which is defined as the belt, three nautical miles wide, seaward of the territorial sea baseline, and to points located in internal waters, landward of the territorial sea baseline.

The coastwise laws administered by U.S. Customs and Border Protection (CBP) can only be waived under the authority provided in 46 U.S.C. § 501. This statute provides in pertinent part:

When the head of an agency responsible for the administration of the navigation or vessel-inspection laws considers it necessary in the interest of national defense, the individual, following a determination by the Maritime Administrator, acting in the Administrator's capacity as Director, National Shipping Authority, of the non-availability of qualified United States flag capacity to meet national defense requirements, may waive compliance with those laws to the extent, in the manner, and on the terms the individual, in consultation with the Administrator, acting in that capacity, prescribes. See 46 U.S.C. § 501(b).

We requested the views of the Department of Defense (DoD) and the Department of Energy (DOE) with respect to your waiver request and its national defense implications. DoD does not object to DHS granting the waiver at the request of another agency or if DHS determines a waiver to be necessary. DOE recommends approval of a waiver, noting that the loss of transport capacity arising from the shutdown of the Colonial Pipeline has led to significant fuel shortages, and although the Colonial Pipeline is anticipated to be operational in all service territories soon, because moving product throughout the system will take several more days, a Jones Act waiver would help reduce supply shortages.

In light of the foregoing, we also requested input from the Maritime Administrator at the Department of Transportation (MARAD) regarding whether there are U.S.-flagged vessels available to transport the fuel products outlined in your waiver request. In response, MARAD stated that pursuant to 46 U.S.C. § 501(b), the Maritime Administration canvassed the U.S. maritime industry to assess the availability of coastwise-qualified vessels for the movement of the subject petroleum products. This survey did not identify any coastwise-qualified U.S.-flag vessels that are available for the proposed transportation. Therefore, MARAD's assessment is that coastwise-qualified vessels are not available to move this cargo at the stated time.

We have carefully considered your request for a waiver of the Jones Act and the information available to the Department. At this time, I have determined that a waiver of the Jones Act is warranted in the interest of national defense for the transportation proposed in your request. Accordingly, your request for a waiver of the Jones Act, as described above, is granted.

Sincerely,

(b)(6); (b)(7)(C)

Alejandro N. Mayorkas

cc: **(b)(6); (b)(7)(C)** Department of Defense
(b)(6); (b)(7)(C) Maritime Administration
(b)(6); (b)(7)(C) Department of Energy