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March 10, 2022

President Joseph R. Biden
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

RE: Request for Jones Act Waivers due to the Ukrainian Crisis

Dear President Biden:

On behalf of the American Maritime Partnership ("AMP"), I write to address misconceptions about the Jones Act and the transportation of crude oil and other energy cargoes in the United States in light of the Russian invasion of Ukraine. AMP represents virtually every element of the U.S. domestic maritime fleet, including maritime workers, vessel operators, and shipyards. Our sole focus is the Jones Act, which requires that merchandise transported by water between two U.S. points be carried on vessels that are U.S.-built, -crewed, -owned, and -registered. We appreciate your support and the overwhelming, bipartisan support in Congress for the Jones Act. Ukraine is a lesson that America must provide for its self-defense and economy, and that the 650,000 U.S. men and women of American Maritime will continue to move what our nation needs, including energy.

As you know, current law at 46 U.S.C. §501 ("Section 501") establishes specific procedures for considering administrative waivers of the vessel navigation and inspection laws. Specifically, waivers of the Jones Act are only allowed if they are "necessary in the interest of national defense." U.S. Customs and Border Protection ("CBP") has repeatedly held in its rulings that a Jones Act waiver cannot be issued solely for economic reasons or for an economic benefit. The process in Section 501 is designed to ensure that any waiver is targeted and does not result in unnecessary American economic or security loss. In the past, broader waivers have resulted in gamesmanship and unjust enrichment of oil traders, a process known as "disaster arbitrage." We hope the following is helpful as you consider any waiver request:

Today there is more than adequate American vessel capacity to address any requirements to transport oil within the United States. Calls for waivers to the Jones Act now are both inconsistent with current law and unnecessary. As you may know, one waiver was already requested last week under the well-established procedures at Section 501, and that waiver request was withdrawn when CBP and the Maritime Administration determined that many American vessels were readily available. Obviously the requester of that waiver had made no attempt to identify Jones Act-qualified vessels, a textbook example of the

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lengths some will go to circumvent U.S. law in order to make a profit in the middle of a world crisis. We saw similar examples of unwarranted and self-serving waiver requests after the Colonial Pipeline cyberattack last year, most of which were found to be unlawful. Today, we are seeing calls for waivers in locations that are already served by American vessels and where additional deliveries of domestic oil are viable.

Congress has expressed its concern about ensuring that American vessels are used to move oil from the strategic petroleum reserve (SPR) before considering the possibility of Jones Act waivers. In addition to the specific requirements of Section 501, the omnibus appropriations bill for FY '22 passed by the House last night requires federal agencies to take steps to ensure the use of American vessels before considering Jones Act waivers related to the transport of oil from the SPR. This is a strong contemporary signal from Congress that Jones Act waivers for SPR drawdowns should be considered only when American vessels are not available.

A waiver of the Jones Act for gasoline would only benefit oil traders. U.S. consumers would not benefit. The price of crude oil is by far the major driver in the cost of gasoline, accounting for approximately 56% of the price of gasoline at the pump. The cost of transportation is a small fraction of the delivered cost. The recent dramatic increase in gas prices has overwhelmingly been driven by the increase in crude oil prices, which have risen by nearly **57%** in just over two months. By contrast, the incremental increase in transportation costs during this time due to rising fuel prices has been minuscule. Waiving the Jones Act would impact the cost of transportation by less than one cent per gallon on average with no guarantee that any benefit would be passed on to consumers. Waivers of the Jones Act would simply put money in the pockets of oil traders and provide no relief to consumers.

Jones Act waivers outsource U.S. jobs and undermine American security. Now is certainly not the time to issue waivers that replace American companies and mariners with vessel operators and mariners from other nations. The domestic maritime industry has kept our nation supplied during the pandemic and the resulting supply chain crisis with consistent, reliable service. It would be both ironic and insulting to take jobs away from these Americans now, at a time of rising inflation and global uncertainty. It is particularly egregious that some have called for Jones Act waivers as a result of the Russian invasion of Ukraine, a situation that underscores the importance of ensuring our nation's ability to protect our economic and homeland security at home and to support our national security interests around the world. The Jones Act ensures that we have a domestic shipbuilding base as well as a pool of mariners to draw upon during cases of national emergency.

Thank you for your attention to this important matter for the American maritime industry. We are available to provide additional information at any time.

Sincerely,



Ku'uhaku Park, President of the American Maritime Partnership