



**U.S. House of Representatives**  
**Committee on Transportation and Infrastructure**  
**Washington, DC 20525**

**Don Young**  
**Chairman**

**James L. Oberstar**  
**Ranking Democratic Member**

October 17, 2005

Lloyd A. Jones, Chief of Staff  
Elizabeth Megginson, Chief Counsel

David Heymsfeld, Democratic Chief of Staff

The Honorable Michael Chertoff  
Secretary  
U.S. Department of Homeland Security  
Naval Security Station  
Nebraska & Massachusetts Avenues, NW  
Washington, D.C. 20528

Dear Secretary Chertoff:

As ranking member of the House Committee on Transportation and Infrastructure, I have carefully followed the activities of the Department of Homeland Security (DHS) related to waivers of Section 27 of the Merchant Marine Act of 1920, commonly referred to as the Jones Act. As you may know, the Jones Act is a cornerstone statute of the United States maritime industry and any amendments to or waivers of the Jones Act receive a great deal of attention. As you also may know, the American maritime industry also provides a critical commercial and military service to our country.

President Bush's public statements and the rationale in your waiver statement attribute the Jones Act waiver to national defense and the requirement to transport certain petroleum products within the domestic commerce of the United States. No one disputes the importance of those goals. However, it is not clear to me how this recent waiver contributes to the Administration's effort to meet those objectives. In fact, the Administration's objective would best be served, I believe, by the use of all available resources – including American tankers and tank barges – to transport petroleum product between points in the United States. There is substantial U.S.-flag tonnage currently available and standing by in the Gulf. Unfortunately, the Jones Act waiver has the effect encouraging the use of foreign low-cost flag-of-convenience tankers and discouraging the use of American vessels and crews.

I wanted to bring to your attention a compromise that I believe meets the needs of those who have promoted the waiver and is consistent with this Administration's long-stated support for the Jones Act. Your authority to waive the Jones Act "in the interest of national defense" is based on Public Law 81-891, an act to waive certain navigation and vessel inspection laws. In 1990, the Customs Service (now part of your Department), the U.S. Maritime Administration (in

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the Department of Transportation), and the Department of Energy agreed to a program for situations involving an "actual or imminent energy supply shortage." Under this system, if no qualified U.S. vessel is available, the Jones Act could be waived on a case-by-case basis for that specific voyage. I understand this is a system that has worked for the past 15 years. It also has the benefit of allowing the government to track waivers to ensure a working knowledge of the number and type of waivers, something not possible under a blanket waiver. Again, I believe this approach would both provide an efficient system of waivers where necessary without sacrificing the Jones Act.

Thank you for your interest in this matter. I am available to discuss this matter if that would be helpful to you.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Oberstar". The signature is fluid and cursive, with a long horizontal stroke at the end.

JAMES L. OBERSTAR  
Ranking Democratic Member  
Committee on Transportation  
and Infrastructure