

API's Vision for American Leadership in Energy: Recommendations for the Department of Homeland Security

The Department of Homeland Security (DHS) plays a crucial role in safeguarding the safety, security, and resilience of the United States, including critical industries such as the oil and gas sector. DHS's responsibilities encompass protecting oil and gas infrastructure from physical and cyber threats, supporting emergency preparedness and response, and ensuring the uninterrupted flow of energy through pipelines, refineries, and distribution networks.

Through agencies like the Cybersecurity and Infrastructure Security Agency (CISA), the United States Coast Guard (USCG), and Customs and Border Protection (CBP), DHS collaborates with public and private sector partners to identify vulnerabilities, mitigate risks, and strengthen the resilience of energy infrastructure. A secure and reliable energy sector is essential to national security and bolsters America's competitiveness in the global economy. DHS's continued partnership with the oil and gas industry is critical to achieving these shared goals.

API has submitted comments on several relevant regulations, which we encourage the transition team to review for additional insights and recommendations.

Included below are the following priorities:

- Interpretation of the Jones Act (*CBP*)
- Marine Casualty Reporting on the Outer Continental Shelf (*USCG*)
- USCG NPRM: Cybersecurity in the Marine Transportation System (*USCG*)

Customs and Border Protection

Key Issues:

- **Interpretation of the Jones Act**
API Ask: Maintain the long-standing interpretation of the Jones Act as it relates to offshore oil and natural gas operations.

Context: Changes to the current regulatory framework or the Jones Act could result in significant disruptions to the oil and natural gas industry and the broader U.S. economy, including potential shutdowns of offshore operations. Industry will continue to engage with both DHS and Congress to advocate against modifications or revocation of existing CBP ruling letters under which the sector operates. In the long term, CBP should establish a rulemaking process that clarifies the application of the Jones Act to the Outer Continental Shelf (OCS). This process would aim to align with the underlying objectives of both the Jones Act and the Outer Continental Shelf Lands Act (OCSLA), ensuring regulatory certainty while supporting the nation's energy security and economic interests.

United States Coast Guard

Key Issues:

- **Marine Casualty Reporting on the Outer Continental Shelf**

API Ask: Withdraw the proposed rulemaking and repropose a new rulemaking addressing numerous ambiguities and establishing a practical approach to casualty reporting.

Context: The proposed changes to casualty reporting criteria for foreign floating OCS facilities (FOFs), mobile offshore drilling units (MODUs), and vessels engaged in OCS activities, as outlined in the USCG's supplemental notice of proposed rulemaking (SNPRM) published on June 14, 2023, introduce significant ambiguities and uncertainties. These uncertainties would require substantial new or revised USCG policies and guidance, creating unnecessary operational and regulatory challenges. To ensure clarity and alignment with USCG's stated objectives, DHS should direct the USCG to withdraw the SNPRM and undertake comprehensive revisions. Revising the proposal before finalizing it would be a more practical and effective approach to addressing industry concerns while upholding safety and compliance standards.

- **Cybersecurity in the Marine Transportation System**

API Ask: Pause development of the final rule to better understand the need for risk-based regulations.

Context: Robust cybersecurity measures are essential to protecting the marine transportation system (MTS), but such measures should account for the diverse risks associated with different types of facilities and operations within the MTS. A one-size-fits-all approach to cybersecurity mitigations risks imposing unnecessary burdens and inefficiencies across the sector. USCG should work closely with operators to better understand the variety of operations covered under the Maritime Transportation Security Act (MTSA) and ensure that any future rulemaking incorporates risk-based assessments. By aligning cybersecurity requirements with specific operational risks, the Coast Guard can effectively safeguard maritime traffic while facilitating the safe movement of oil and natural gas products.