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ARTICLE

Jones Act Considerations for the Development of Offshore Wind Farms

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Jones Act Basics

History
The United States has restricted its domestic maritime commerce in merchandise since 1789. In its third Act, even before it enacted a system of vessel registration or established any department of the Government, the first U.S. Congress enacted "An Act Imposing Duties on Tonnage" which preferred American-owned vessels to foreign vessels in U.S. domestic trade.

In 1817 the U.S. adopted an outright reservation to American-owned vessels which is the more direct predecessor to current U.S. cabotage laws reserving U.S. domestic trade to qualified U.S.-flag vessels. That law prohibited the transportation of "merchandise" which was "imported" "from one port of the United States to another port of the United States" "in a vessel belonging wholly or in part to a subject of any foreign power." Notably, it was not until 1898 that this restriction was revised to exclude *foreign-registered* vessels from the U.S. domestic trade.

A section of the Merchant Marine Act, 1920, shepherded through the U.S. Senate by Sen. Wesley Livsey Jones (R-WA) who was then Chairman of the Commerce Committee, included a section (§ 27) which restated the prior law and fixed the loophole created by the Wickersham opinion. At the time, the entire 1920 Act was thought of as the "Jones Law" or the "Jones Act" and most of it had nothing to do with U.S. domestic trade. Nevertheless, the U.S. domestic trade reservation which dates from 1789, together with the refinements and expansions, are generally lumped together and commonly referred to as the "Jones Act."

Today, the "Jones Act" and related laws restrict U.S. domestic commerce to U.S. registered vessels that are: U.S.-citizen owned, U.S.-citizen operated and U.S.- built. Such vessels must also have a U.S. citizen crew by virtue of being registered in the United States.

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