

Customs Narrows Jones Act Fuel Blending Guidance

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U.S. coastwise laws, commonly referred to as the “Jones Act,” restrict the transportation of merchandise by water between two U.S. points to qualified U.S.-flag vessels even if such cargo is transshipped in a foreign port. One exception to this requirement is when the merchandise is converted ashore into a “new and different” product. Customs and Border Protection has issued a number of rulings over the years regarding what constitutes “new and different” merchandise, particularly in the area of fuel blending. On March 6, 2014, for example, Customs issued a ruling regarding the transportation of gasoline components blended to result in finished gasoline products. On August 4, 2014, Customs issued another blending ruling in which it determined that the resulting merchandise, starting as undenatured ethanol and ending as fuel grade denatured ethanol, was not “new and different.” Among other things, Customs relied on the fact that the components and the resulting product both had the same Harmonized Tariff Schedule (HTS) four digit level classification.

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Author

[Charlie Papavizas](#)

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