WINSTON & STRAWN LLP

ARTICLE

Jones Act Administrative Waivers

SUMMER 2018

This article originally appeared in the Tulane Maritime Law Journal *and is reprinted with permission from the publication. Any opinions in this article are not those of Winston & Strawn or its clients. The opinions in this article are the authors' opinions only.*

The "Jones Act" is the popular name for a set of federal laws that restrict U.S. domestic maritime commerce to U.S. citizen-owned and-operated, U.S.-built, U.S.-flagged vessels. The Jones Act received extensive media coverage in 2017, much of it critical, because of Hurricanes Harvey, Irma, and Maria and the view that the Jones Act impeded disaster recovery. In fact, short-term administrative waivers of the Jones Act were granted after Hurricanes Harvey, Irma, and Maria as has become par for the course since Hurricane Katrina in 2005. Hurricane Maria in particular, which devastated Puerto Rico, has rekindled and intensified calls to modify or waive the Jones Act further either temporarily or permanently with regard to Puerto Rico. The fact that these calls rarely attempt to make the case needed to obtain an administrative waiver of the Jones Act under existing law indicates that the Jones Act administrative waiver process is widely misunderstood.

Here, we summarize the Jones Act and examine the law whichpermits administrative waivers of the Jones Act including how the law and practice have evolved since the first waiver authority was instituted in World War II. In that process, waivers of the Jones Act have evolved from war measures to encompass energy shortage or energy disruption situations during peacetime and particularly following major hurricanes or environmental disasters. The process has also evolved such that the availability or non-availability of Jones Act-qualified U.S.-flag vessels has become central to the waiver consideration process whereas it formerly was not an express consideration. Finally, because administrative waivers are exceptions rather than the rule, Jones Act penalty mitigation usually deserves review in any situation where a waiver is not forthcoming.

View the article

1 Min Read

Related Locations

New York | Washington, DC

Related Topics

Jones Act | Jones Act Maritime | Jones Act Shipping | Jones Act Waivers | Jones Act Vessels | Papavizas Jones Act

Related Regions

North America

Related Professionals

Charlie Papavizas

© 2024 Winston & Strawn LLP.