

Multiple Jones Act Waiver Requests Submitted



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The U.S. “Jones Act” restricts the transportation of merchandise in U.S. maritime commerce to qualified U.S.-flag vessels. The Jones Act and related laws can be waived when such a waiver is “in the interest of national defense.” Requests for a Jones Act waiver are rarely granted, particularly since 2012, with the only significant exception being general waivers granted after Hurricanes Harvey, Irma, and Maria. Generally, waivers are considered by the U.S. Department of Homeland Security with input in particular from the U.S. Maritime Administration in the U.S. Department of Transportation with regard to qualified U.S.-flag vessel availability.

It is therefore unusual for Jones Act waiver requests to be submitted in the absence of a national calamity akin to a landfall of a major hurricane. Reportedly, at least four waiver requests were submitted in the last few months in the absence of such a circumstance with the latest request being submitted by the Governor of Puerto Rico in the middle of December 2018.

The Puerto Rico request seeks a ten-year waiver for the movement of liquefied natural gas to Puerto Rico on foreign-flag vessels. Although the request is not publicly available, the request is referenced in a Congressional letter dated February 6, 2019 opposing the waiver request. The Congressional letter is signed by both the Chairman and Ranking Members of the House Transportation and Infrastructure Committee and the Subcommittee on Coast Guard and Maritime Transportation. Among other things, the Congressional letter asserts that there is “no valid national defense rationale” for a Jones Act LNG waiver “especially for a ten-year period.”

Should the U.S. Maritime Administration determine that no U.S.-flag vessel is available to meet the transportation requirements set forth in the waiver requests, it is required by law to post such determination on its web site. To date, no such determination has been posted indicating that the requests have either been denied or not yet acted upon.

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