

New Jersey's Quest for a Jones Act Waiver

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It has been reported that the State of New Jersey requested on February 13, 2014 a waiver of the requirement to transport merchandise in the U.S. coastwise trade by a qualified U.S.-flag vessel (that requirement and others popularly referred to as the "Jones Act") in order to replenish its depleted supplies of road salt. Jones Act waivers are rarely granted and must be based on a determination that the waiver is "necessary in the interest of national defense." Customs and Border Protection has often indicated that a waiver will not be granted merely because a qualified vessel is unavailable or for commercial reasons. The U.S. Congress has also amended the waiver requirement in the last few years to require that, in addition, a waiver cannot be granted unless the U.S. Maritime Administration determines that there are no qualified U.S.-flag vessels available and has identified "actions that could be taken to enable qualified United States flag capacity to meet national defense requirements." MARAD's determinations must also be posted on its web site, which has not yet occurred.

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