

Hurricane Irma Jones Act Waiver Issued



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On September 8, the U.S. Department of Homeland Security issued a waiver of the Jones Act with respect to the movement of merchandise between points in the United States effective immediately and lasting seven days for the movement of refined petroleum products to be shipped from New York, Pennsylvania, Texas, and Louisiana to South Carolina, Georgia, Florida, and Puerto Rico.

The “Jones Act” is the popular name for a section of the Merchant Marine Act, 1920, which restricts the transportation of “merchandise” between points in the United States to U.S.-flag vessels built in the United States and owned and operated by U.S. citizens. All U.S.-flag vessels, including those operating in the foreign trade, must have predominantly U.S. citizen crews.

The Jones Act can be waived by law (46 U.S.C. § 501) if considered necessary in the “interest of national defense” and following a determination by the U.S. Maritime Administration that no qualified U.S.-flag vessels are available to meet the need.

In a September 6 letter, the U.S. Department of Energy (DOE) indicated that “conditions exist for a potential imminent shortage [of refined products] in the areas that are currently predicted to be affected by Hurricane Irma, namely Florida, Georgia, and South Carolina.” On September 8, the U.S. Department of Defense concurred and determined that it was in the “interest of national defense” that a waiver be issued.

MARAD is required by law “to identify any actions that could be taken to enable qualified United States flag capacity to meet national defense requirements” in addition to determining whether U.S.-flag vessels are available, and publish those actions and determination on the U.S. Department of Transportation web site.

Similar short “period of time” waivers to deal with regional shortages of refined products were issued after Hurricanes Katrina, Rita, and Sandy.

The initial seven days covers merchandise laden on board a vessel during that period and delivered after the seven days. The DOE letter also notes that the waiver will be reviewed after seven days and that the “Department will review the merits of an extension” at that time.

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