

Hurricane Irma Jones Act Waiver Additional Guidance Issued

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On September 8, the U.S. Department of Homeland Security (DHS) issued a waiver of the Jones Act with respect to the movement of refined petroleum products from certain states effective immediately and lasting seven days to be shipped to South Carolina, Georgia, Florida, and Puerto Rico. On September 12, DHS issued clarifying guidance requiring DHS notifications associated with the waiver.

The September 8 action waived the “Jones Act,” which is the popular name for a U.S. law that mandates the use of U.S.-built, U.S.-flag vessels for the transportation of “merchandise” between points in the United States.

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 unless the waiver was requested by the Secretary of Defense (as it was on September 8).

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

On September 12, Customs and Border Protection (CBP) requested that any person utilizing the September 8 waiver provide notice to CBP of the vessel name, commodity carried, the name of the carrier and ports, and dates of departure and arrival. CBP also provided guidance on the entrance requirements for domestic cargo carried on foreign-flag vessels (which would have been prohibited without the waiver) as well as guidance as to the form (CBP Form 1302) that must be provided with appropriate bill of lading and other information.

Informally, CBP has also indicated that the seven day waiver expires at midnight on September 15 when any vessel intending to utilize the waiver must have completed loading at a U.S. port.

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