

DEPARTMENT OF HOMELAND SECURITY

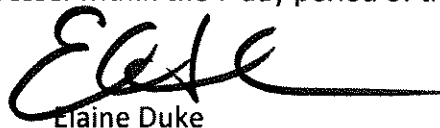
Waiver of Compliance with Navigation Laws

Hurricane Harvey striking the U.S. Gulf Coast has resulted in severe disruptions in both the midstream and downstream sectors of the oil supply system. Some refineries and pipeline networks are shut-in or running at reduced rates. In addition, conditions exist for a potential imminent shortage of energy supply in areas predicted to be affected by Hurricane Irma. In light of the impact on the affected region's energy needs, the Department of Energy (DOE) has recommended that the Department of Homeland Security waive the requirements of the Jones Act in the interest of national defense to facilitate the transportation of the necessary volume of petroleum products for a 7-day period. Furthermore, the Department of Defense (DoD) has requested a 7-day waiver of the Jones Act in the interest of national defense, commencing immediately.

The Jones Act, 46 United States Code (U.S.C.) 55102, states "a vessel may not provide any part of the transportation of merchandise by water, or by land and water, between points in the United States to which the coastwise laws apply, either directly or via a foreign port" unless the vessel was built in and documented under the laws of the United States and is wholly owned by persons who are citizens of the United States. Such a vessel, after obtaining a coastwise endorsement from the U.S. Coast Guard, is "coastwise-qualified." The coastwise laws generally apply to points in the territorial sea, which is defined as the belt, three nautical miles wide, seaward of the territorial sea baseline, and to points located in internal waters, landward of the territorial sea baseline.

The navigation laws, including the coastwise laws, can be waived under the authority provided by 46 U.S.C. 501. The statute provides in relevant part, "On request of the Secretary of Defense, the head of an agency responsible for the administration of the navigation or vessel-inspection laws shall waive compliance with those laws to the extent the Secretary considers necessary in the interest of national defense." 46 U.S.C. 501(a)

For the reasons stated above, and in light of the request from the Department of Defense and the concurrence of the Department of Energy, I am exercising my authority to waive the Jones Act for a 7-day period, commencing immediately, to facilitate movement of refined petroleum products, including gasoline, diesel, and jet fuel – to be shipped from New York, Pennsylvania, Texas, and Louisiana to South Carolina, Georgia, Florida, and Puerto Rico. This waiver applies to covered merchandise laded on board a vessel within the 7 day period of the waiver.



Elaine Duke

Acting Secretary

September 8, 2017



ACQUISITION,
TECHNOLOGY,
AND LOGISTICS

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

SEP 08 2017

Ms. Lisa L. Burley
Chief/Supervisory Attorney-Advisor
Cargo Security, Carriers and Restricted Merchandise Branch
Office of Trade, Regulations and Rulings
U.S. Customs and Border Protection
90 K Street, N.E.
10th Floor
Washington, D.C. 20229

Dear Ms. Burley:

This supersedes my letter dated September 7, 2017. Based upon the authority delegated to me by the Secretary of Defense in Department of Defense Directive 5134.01, I consider it necessary in the interest of national defense to waive the Jones Act (46 U.S.C. 55102) for a period of 7-days, commencing immediately, for refined petroleum products, including gasoline, diesel, and jet fuel, to be shipped from New York, Pennsylvania, Texas, and Louisiana to South Carolina, Georgia, Florida, and Puerto Rico. This waiver may be extended if I consider it to be necessary in the interest of national defense. The Department makes this request pursuant to 46 U.S.C. 501(a).

Sincerely,

Ellen M. Lord



Department of Energy
Washington, DC 20585

September 6, 2017

Ms. Lisa L. Burley
Chief/Supervisory Attorney-Advisor
Cargo Security, Carriers and Restricted Merchandise Branch
Office of Trade, Regulations and Rulings
U.S. Customs and Border Protection
799 Ninth Street, NW, 5th Floor
Washington, DC 20229

Dear Ms. Burley:

Thank you for your September 2 letter requesting the U.S. Department of Energy's (DOE) review of the request from SeaRiver Maritime Inc. (SeaRiver) for the use of foreign flag vessels to help alleviate disruptions to the transportation of petroleum products to the affected areas as well as other regions supplied by Texas.

After discussions with the Department of Homeland Security, Customs and Border Protection, the Department of Defense, and the Maritime Administration, DOE has amended its recommendation. As noted, there have been severe disruptions in both the midstream and downstream sectors of the oil supply system as a result of Hurricane Harvey. Some refineries and product pipeline networks are shut-in or running at reduced rates. These refineries and pipeline networks are critical to the production and distribution of refined products such as gasoline, diesel, and jet fuels for the east coast.

As a result, DOE determines that conditions exist for a potential imminent shortage in the areas that are currently predicted to be affected by Hurricane Irma, namely Florida, Georgia, and South Carolina. DOE believes the waiver is in the interest of national defense, and supports critical infrastructure because the waiver mitigates future refined product supply risks in the impacted regions. DOE would support an industry-wide 7-day waiver of the Jones Act for refined products—specifically gasoline, diesel, and jet fuel—to be shipped from New York, Pennsylvania, Texas, and Louisiana to South Carolina, Georgia and Florida. After 7 days, the Department will review the merits of an extension.

DOE expresses no view on the availability of qualified U.S.-flag vessels, which will be determined by the U.S. Maritime Administration. If you have any questions or concerns, please do not hesitate to contact me. I can be reached at (202) 586-1411.

Sincerely,

A handwritten signature in cursive script that reads "Patricia A. Hoffman".

Patricia A. Hoffman
Acting Assistant Secretary
Office of Electricity Delivery and Energy Reliability

