

§ 388.2

United States, and grants authority for revocation of those waivers.

§ 388.2 Definitions.

For the purposes of this part:

(a) Administrator means the Maritime Administrator.

(b) Coastwise Trade Laws include:

(1) The Coastwise Endorsement Provision of the Vessel Documentation Laws, (46 U.S.C. 12106);

(2) The Passenger Services Act, section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289); and

(3) The Jones Act, section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883).

(c) Eligible Vessel means a vessel otherwise eligible for a U.S. Coast Guard certificate of documentation (i.e. of five or more tons) that is either a small passenger vessel or an uninspected passenger vessel that—

(1) Was not built in the United States and is at least 3 years of age; or

(2) If rebuilt, was rebuilt outside the United States at least 3 years before the certificate of documentation with appropriate endorsement, if granted, would become effective.

(d) MARAD means the Maritime Administration, U.S. Department of Transportation.

(e) Secretary means the Secretary of Transportation.

(f) The terms, small passenger vessel, uninspected passenger vessel, and passenger for hire have the meaning given such terms by 46 2102 U.S.C.

§ 388.3 Application; fee.

(a) An owner of the vessel may apply in writing to the Secretary, MARAD, MAR-120, Room 7210, 400 7th St., SW., Washington, DC 20590, for an administrative waiver of the coastwise trade laws of the United States for an eligible vessel to carry no more than 12 passengers for hire. The application need not be in any particular format, but must be signed and contain the following information:

(1) Name of vessel and owner for which waiver is requested.

(2) Size, capacity and tonnage of vessel (state whether tonnage is measured pursuant to 46 U.S.C. 14502, or otherwise, and if otherwise, how measured).

46 CFR Ch. II (10-1-01 Edition)

(3) Intended use for vessel, including geographic region of intended operation and trade.

(4) Date and place of construction and (if applicable) rebuilding. (If applicant is unable to determine the origin of the vessel, foreign construction will be assumed).

(5) Name, address, and telephone number of vessel owner.

(6) A statement on the impact this waiver will have on other commercial passenger vessel operators, including a statement describing the operations of existing operators.

(7) A statement on the impact this waiver will have on U.S. shipyards.

(b) MARAD may ask additional questions of the applicant as part of the application review.

(c) You must enclose a non-refundable application fee for each waiver requested, in the form of a check or money order for \$300, made out to the order of "Maritime Administration—Transportation."

§ 388.4 Criteria for grant of a waiver.

(a) *General criteria.* (1) We will waive the foreign build and/or foreign rebuild prohibition in the coastwise trade laws for an eligible vessel only if we determine that the employment of the vessel in the coastwise trade will not unduly adversely affect—

(i) United States vessel builders; or

(ii) The coastwise trade business of any person who employs vessels built in the United States in that business.

(2) We may not limit the determination of "unduly adverse affect" on a coastwise operator or an U.S. vessel builder to operators or builders of vessels carrying 12 or fewer passengers.

(3) We will evaluate the expected impact of the proposed waiver on the basis of all the information received from all sources, including public comment, internal investigation and analysis, or any other sources or information deemed appropriate.

(b) *Impact on U.S. vessel builders.* We may use the following criteria to determine the effect on U.S. vessel builders: Whether a potentially impacted U.S. vessel builder has a history of construction of similar vessels, or can demonstrate the capability and capacity to build a similar vessel, for use in