



US Department
of Transportation
**Maritime
Administration**

MANUAL OF ORDERS

MARITIME ADMINISTRATIVE ORDER

REVOKES

NO.

200-3

EFFECTIVE DATE

October 26, 1998

SUBJECT

WAIVERS

Section 1. Purpose: This order establishes the policies, responsibilities and procedures for achieving managerial and operational flexibility within the Maritime Administration (MARAD) by fostering innovation through effective use of waivers to internal rules, regulations, policies, procedures, processes, etc.

Section 2. Background: The Secretary issued a policy statement regarding the use of waivers and directed Heads of Operating Administrations (OAs) to implement a streamlined waiver process. The policy states:

DOT should actively use waivers as a tool to create managerial and operational flexibility to meet the challenges of the transportation systems of the 21st Century. Therefore, I am directing all DOT officials who can waive internal rules, regulations, policies, procedures, and processes to approve waiver requests from DOT employees, whenever feasible, and not to disapprove any request unless there is a compelling reason to do so.

Section 3. Policy:

3.01 Employees are encouraged to use the procedure outlined in section 5 of this order to submit innovative ideas, which enhance flexibility and lessen restrictions on front-line employees. Employees should review their operational environment to uncover internal rules, regulations, policies, procedures and processes that, if changed or eliminated, will result in an organization that works better, costs less and gets the results that our customers care about.

3.02 Employees having authority to change or waive an internal rule, regulation, policy, procedure, process, etc., are encouraged to take the initiative and offer waivers on their own cognizance.

3.03 For employees who are covered by collective bargaining agreements, the requirements of the agreements must be applied as well. To the extent that conflicts between an existing collective bargaining agreement and this order exist, the collective bargaining agreement will prevail. Bargaining unit employees will not be covered by these policies until appropriate negotiations with employee representatives as provided for under 5 U.S.C. 7117(d)(2) have occurred.

Section 4. Definitions:

Approving Official. The approving official is the Associate Administrator, Independent Office Director, Region Director, or Superintendent, U.S. Merchant Marine Academy. The determination of the approving official is based on who developed the rule.

Independent Official. The independent official is the Deputy Maritime Administrator. The independent official is the only one who can disapprove a waiver request.

Processing Official. The Secretary, MARAD, is the processing official. The processing official will maintain the official record of all requests for consultation and all requests for waivers and other documentation; monitor the consultation and waiver processes, including key dates in the consultation and waiver process; facilitate addressing of legal/personnel/ technical issues and arrange for posting of final actions on the DOT website.

Process Owners. The requester and approving official are the process owners who are responsible for (1) ensuring that appropriate advice and assistance from legal, labor relations and technical sources are received during the consultation phase, (2) meeting timeframes outlined in this order and (3) doing an assessment of the process.

Rule. For the purposes of this waiver process, rule means any internal rule, regulation, policy, procedure or process, etc., that a MARAD official has the authority to waive. The process does not apply to discretionary management decisions (e.g., operations of an office such as workload distribution, work hours, telecommuting, etc.).

Waiver. A waiver is the ability to disregard a rule in whole or in part. It is given as a delegation of authority from an individual having authority to change or waive an internal agency rule.

Section 5. Procedures:

5.01 The employee who wishes to have a rule waived should complete Form MA-1018 (see exhibit 1) and submit it to the approving official, with a copy to the processing official, outlining what rule they are requesting to waive. If the employee is uncertain as to who is the appropriate approving official, the processing official should be contacted to provide that information.

5.02 The receipt of the memorandum from the requesting employee to the approving official begins the consultation process. During this process, the process owners will consult with appropriate resources, including the processing official, to ensure that any legal, labor-relations or technical issues that should be considered are addressed. During this collaborative process, they will ensure that the waiver is "doable" and does not: (1) violate law, treaty, executive order, negotiated labor agreement or civil rights protections, (2) impact consistency (i.e., operational consistency to treat people, including the public and DOT employees, equitably); (3) degrade agency mission, or (4) deviate from a Governmentwide regulation which MARAD officials do not have authority to waive. During this period, coordination with other OAs should occur when the rule, policy, procedure, process, etc., being waived was developed jointly among the OAs. If the process owners are unsure as to whether other OAs should be involved or have questions about other issues in the consultation process, the processing official should be consulted.

5.03 The consultation process should not generally last longer than 60 calendar days. If the process extends beyond the 60-day period, the process owners should document the reason(s) for the delay. A copy of the documentation should be provided to the processing official.

5.04 Once the consultation process is complete or if the approving official does not respond within 30 calendar days to a request for consultation, the requester may submit the waiver request on the standard waiver request form, DOT 1001. The waiver request is the official request to waive the rule and begins the formal process. All waiver requests are to be submitted to the approving official with a copy to the independent official and the processing official.

5.05 A waiver request must be approved or disapproved within 30 calendar days from the submittal date on the request form. This 30-day time period does not include consultation time, but does include the time for any independent official review.

5.06 If the approving official approves the request, it should be forwarded to the requester, the independent official and the processing official. The approved waiver will be posted on the DOT website.

5.07 If the approving official recommends disapproval, the recommendation with justification for the disapproval must be forwarded to the independent official, with a copy to the processing official, within 15 calendar days of the submittal date on the request form.

5.08 The independent official will act on the approving official's recommendation to disapprove by either approving or disapproving the request and notifying the requester, the approving official and the processing official of the decision.

5.09 A flow chart outlining this process is attached (see exhibit 2).

5.10 The independent official may grant an extension of the 30-day period when required to complete analysis of the impact of the waiver request and should notify the requester, the approving official and the processing official of this decision.

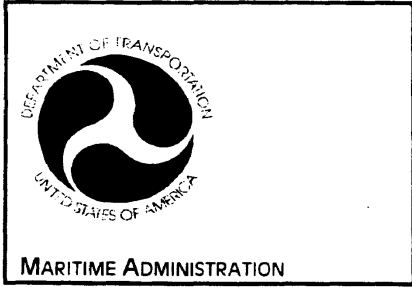
5.11 If the waiver request has not been extended, approved, or disapproved within 30 calendar days from the submittal date, it is automatically approved and posted on the DOT website.

5.12 The decision of the independent official is final. There is no right of appeal.

Section 6. Assessment of Waivers: The process owners must develop an assessment tool to determine the operational effectiveness of the waiver and whether it should be expanded, extended, discontinued, or permanently implemented through a change after it has been in operation. The use of performance measures may be appropriate to determine how much managerial flexibility resulted in terms of hours worked, dollars expended, etc. This assessment should take place no later than six months after implementation of the waiver request.

Section 7. Further Guidance: Employees who wish to propose changes to statutes, Governmentwide or DOT regulations, etc., that are outside the purview of MARAD and are not covered by this waiver process should submit a memorandum to the processing official.


Clyde J. Hart, Jr.
Maritime Administrator



Consultation Request

1. What internal rule, regulation, policy, procedure, process, etc., are you requesting to be waived?

2. What organizational benefit do you expect to accomplish through this waiver?

3. Which organizational component do you wish to be covered by this waiver?

4. How long do you want this waiver to be in effect?

5. Name of requester: _____ Telephone no.: _____
Has submitted this consultation request on _____

THIS CONSULTATION REQUEST WAS RECEIVED ON _____

NAME OF APPROVING OFFICIAL: _____

TELEPHONE NO.: _____

CC:
Processing Official

MARAD WAIVER PROCESS

