

**Maritime Cabotage Laws Administered by U.S. Customs and Border Protection  
as applied to the U.S. Territories  
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The U.S. Customs and Border Protection administers maritime cabotage (also known as “coastwise”) laws which involve a myriad of activities conducted in U.S. territorial waters by qualified U.S.-flag vessels. These laws, found in Title 46, United States Code, Chapter 551, include those provisions pertaining to the transportation between U.S. points of merchandise (46 U.S.C. 55102, commonly known as the “Jones Act”) and passengers (46 U.S.C. 55103, commonly known as the “Passenger Vessel Services Act”). Such transportation is referred to as “coastwise trade”. The CBP regulations promulgated pursuant to this statutory authority are set forth in Title 19, Code of Federal Regulations, Sections 4.80, 4.80a and 4.80b. Generally, this authority prohibits vessels from engaging in the coastwise trade unless they are U.S.-built, owned and documented with a U.S. certificate of documentation having a coastwise endorsement.

The application of the coastwise laws to the island territories and possessions of the United States is specifically provided for in 46 U.S.C. 55101. This statute establishes that such laws are applicable to Guam, yet inapplicable to American Samoa, the Northern Mariana Islands (except as provided in section 502(b) of the Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America), and the Virgin Islands until the President declares by proclamation that the coastwise laws apply to the Virgin Islands.

Notwithstanding the provisions of 46 U.S.C. 55101, CBP’s administration of the coastwise laws necessitates their interpretation in concert with the vessel documentation laws, also found in Title 46 of the United States Code, which specify the requirements necessary for a vessel to be authorized to engage in a certain activity. Responsibility for compliance with these laws rests with the U.S. Coast Guard. To that end it is noted that one of those laws (46 U.S.C. 12111(b)) provides, in part, that a vessel for which a registry endorsement is issued (an endorsement that does not require the higher degree of ownership or U.S. build that is required for a coastwise endorsement issued pursuant to 46 U.S.C. 12112) may engage in trade with Guam and American Samoa. In addition, 46 U.S.C. 12116(a)(1) provides for the issuance of limited coastwise endorsements for Guam, American Samoa, and the Northern Mariana Islands with respect to the coastwise trade of fisheries products.

The applicability of the coastwise laws can be waived by the Secretary of Homeland Security in the interest of national defense pursuant to 46 U.S.C. 501. This statute provides, in part, that with respect to those waiver requests not originating from the Secretary of Defense, the coastwise laws may be waived only after consultation with the Maritime Administrator as to the non-availability of qualified U.S.-flag vessels. Requests to waive the coastwise laws are initiated with CBP and subsequently forwarded to the Secretary of Homeland Security for review.

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