

Our geographic region of intended operation and trade will be our home port of Valdez, Alaska and Prince William Sound. Our primary focus will be cruising, whale watching, kayak tours, and hunting party transports and/or overnight accommodations.”

(4) Date and Place of construction and (if applicable) rebuilding. *Date of construction*: 1979. *Place of construction*: Taiwan by ROCS Marine, Koehsiung.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: “This will have virtually no impact on other vessels operating in and around Valdez as they are commercial fishing vessels and sport fishing charters. By the very nature of “WanderLust’s” construction, we couldn’t possibly jeopardize either of these industries. The distance to good fishing grounds prevents us from entering into competition with the local sport fishing charters. It is 90 miles to the Gulf of Alaska. It takes them 3 hours to get there and it takes us over 8. We would not draw the same level of interest as their clientele for the purpose of sport fishing.”

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: “This will have absolutely no negative impact on U.S. shipyards. Once granted coastwise privileges, U.S. shipyards will benefit from repair work.

Additionally, to build a 41 foot vessel for the purposes we request would be too expensive in relation to return on investment. Only an existing, older and less expensive vessel can be justified in this type of endeavor.”

Dated: October 3, 2001.

By Order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 01-25267 Filed 10-5-01; 8:45 am]

**BILLING CODE 4910-81-P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket Number MARAD-2001-10764]

#### Requested Administrative Waiver of the Coastwise Trade Laws

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel BREAK’ N WIND.

**SUMMARY:** As authorized by Pub. L. 105-383, the Secretary of Transportation, as

represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105-383 and MARAD’s regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

**DATES:** Submit comments on or before November 8, 2001.

**ADDRESSES:** Comments should refer to docket number MARAD-2001-10764. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL-401, Department of Transportation, 400 7th St., SW., Washington, DC 20590-0001. You may also send comments electronically via the Internet at <http://dmses.dot.gov/submit/>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR-832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202-366-2307.

**SUPPLEMENTARY INFORMATION:** Title V of Pub. L. 105-383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the

commenter’s interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD’s regulations at 46 CFR part 388.

#### Vessel Proposed for Waiver of the U.S.-build Requirement

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

*Name of vessel:* BREAK’ N WIND.  
*Owner:* Errol Travers.

(2) Size, capacity and tonnage of vessel. According to the applicant: “36 Feet, 7 Net ton”.

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: “Commercial Chartering” “New Bedford, Fairhaven MA Buzzards Bay area.”

(4) Date and Place of construction and (if applicable) rebuilding. *Date of construction*: 1981. *Place of construction*: Can’t document.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: “There will be no adverse effect on other US built vessels since there currently are no Sailboat Charting in existence in this area.”

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: “There will be no adverse impact on any US vessel builders or ship yards, since my vessel is using US shipyards for repairs and dockage.”

Dated: October 3, 2001.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 01-25268 Filed 10-5-01; 8:45 am]

**BILLING CODE 4910-81-P**

## DEPARTMENT OF THE TREASURY

### Senior Executive Service Combined Performance Review Board (PRB)

**AGENCY:** Treasury Department.

**ACTION:** Notice of Members of Combined Performance Review Board (PRB).

**SUMMARY:** Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of members of the Combined PRB for the Bureau of Engraving and Printing, the Financial Management Service, the U.S. Mint and the Bureau of the Public Debt. The Board reviews the performance appraisals of career senior executives below the level of bureau head and principal deputy in the four bureaus, except for executives below the Assistant Commissioner level in the

Financial Management Service. The Board makes recommendations regarding proposed performance appraisals, ratings, bonuses and other appropriate personnel actions.

**COMPOSITION OF COMBINED PRB:** The Board shall consist of at least three voting members. In case of an appraisal of a career appointee, more than half of the members shall consist of career appointees. The names and titles of the Combined PRB members are as follows:

**PRIMARY MEMBERS:** Jay M. Weinstein, Associate Director for Policy and Management & CFO, Mint; Debra L. Hines, Assistant Commissioner (Public Debt Accounting), PD; Joel C. Taub, Associate Director (Management), E&P; Larry D. Stout, Assistant Commissioner, Federal Finance, FMS.

**ALTERNATE MEMBERS:** David Pickens, Associate Director for Numismatics, Mint; Frederick A. Pyatt, Assistant Commissioner (Office of Investor Services), PD; Gregory D. Carper, Associate Director (Chief Financial Officer), E&P; Scott Johnson, Assistant Commissioner, Management & CFO, FMS.

**DATES:** Membership is effective on October 9, 2001.

**FOR FURTHER INFORMATION CONTACT:** Joel C. Taub, Associate Director (Management), Bureau of Engraving and Printing, 14th and C Sts., Washington, DC 20228, (202) 874-2040.

This notice does not meet the Department's criteria for significant regulations.

**Joel C. Taub,**

*Associate Director (Management), Bureau of Engraving and Printing.*

[FR Doc. 01-25186 Filed 10-5-01; 8:45 am]

**BILLING CODE 4840-01-M**

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

[Docket No. 01-22]

#### Preemption Opinion

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Notice.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC) is publishing its response to a written request for the OCC's opinion of whether Federal law preempts certain provisions of the West Virginia Insurance Sales Consumer Protection Act (West Virginia Act or Act). The OCC has determined that Federal law preempts some, but not all, provisions of the West Virginia Act.

**FOR FURTHER INFORMATION CONTACT:** Mark Tenhundfeld, Assistant Director, or Mary Ann Nash, Counsel, Legislative and Regulatory Activities Division, (202) 874-5090.

**SUPPLEMENTARY INFORMATION:** On June 2, 2000, the OCC published in the **Federal Register** notice of a request from the West Virginia Bankers Association (Requester) for the OCC's opinion concerning whether section 104 of the Gramm-Leach-Bliley Act (GLBA) preempts certain provisions of the West Virginia Act. See Notice of Request for Preemption Determination, 65 FR 35420 (June 2, 2000) (Notice). The OCC is publishing its response to the request as an appendix to this notice.

In the Notice, the OCC requested public comment on whether Federal law preempts the provisions of the West Virginia Act that the Requester had identified. In response, the OCC received 67 comments from 63 commenters. A number of commenters, including banks and the West Virginia banking trade association, thought that some or all of the provisions in question were preempted. Other commenters opposed preemption, generally asserting that provisions of the West Virginia Act fell within the safe harbor provisions of GLBA or did not prevent or significantly interfere with the ability of a financial institution to engage in any insurance sales, solicitation, or crossmarketing activity.

For the reasons described in the preemption opinion, the OCC has concluded that Federal law preempts some, but not all, of the provisions of the West Virginia Act. In particular, it is the OCC's opinion that Federal law *does not preempt* the following provisions of the West Virginia Act with respect to national banks:

- The Act's prohibition against requiring or implying that the purchase of an insurance product from a financial institution is required as a condition of a loan;
- The Act's provision prohibiting a financial institution from offering an insurance product in combination with other products unless all of the products are available separately; and
- The Act's requirement that, where insurance is required as a condition of obtaining a loan, the insurance and credit transactions be completed independently and through separate documents.

We also conclude that the following provision of the Act *is preempted only in part*:

- With respect to the Act's disclosure requirements, we conclude that the provisions prescribing the content of the

disclosures that a financial institution is required to make in connection with the solicitation of an insurance product, and the requirement that a financial institution that sells insurance obtain a written acknowledgment, in a separate document, from its insurance customer that certain disclosures were provided are not preempted; but that the Act's provisions regarding the manner and timing of certain required disclosures are preempted.

Finally, it is our opinion that Federal law does preempt the following provisions of the West Virginia Act with respect to national banks:

- The Act's provisions requiring financial institutions to use separate employees for insurance solicitations;
- The Act's restrictions on the timing of bank employees' referral or solicitation of insurance business from customers who have loan applications pending with the bank;
- The Act's restrictions on sharing with bank affiliates information acquired by a financial institution in the course of a loan transaction to solicit or offer insurance; and
- The Act's requirement that financial institutions segregate the place of solicitation or sale of insurance so that it is readily distinguishable as separate and distinct from the deposit-taking *and* lending areas.

The analysis used to reach these conclusions and the reasons for each conclusion are described in detail in our reply to the Requester.

Dated: September 24, 2001,

**John D. Hawke, Jr.,**

*Comptroller of the Currency.*

#### Attachment

September 24, 2001

Sandra Murphy, Esq.,  
Bowles Rice McDavid Graff & Love,  
600 Quarrier St.,  
Charleston, West Virginia 25301.

Dear Ms. Murphy: This letter replies to your request, on behalf of the West Virginia Bankers Association, for the opinion of the Office of the Comptroller of the Currency (OCC) concerning whether certain provisions of the West Virginia Insurance Sales Consumer Protection Act (the West Virginia Act)<sup>1</sup> apply to national banks.

For the reasons described in detail in this letter, we have concluded that Federal law preempts some, but not all, of the provisions of the West Virginia Act that you have asked us to review. In particular, it is our opinion that Federal law does not preempt the

<sup>1</sup> The provisions of the West Virginia Act that you have asked us to review are codified at W. Va. Code §§ 33-11A-6, 33-11A-8 to -11, and 33-11A-13 and -14 (2000). For the sake of simplicity, this letter usually refer to these provisions by section number only. Thus, for example, we refer to § 33-11A-6 as "section 6."