

previously evaluated. The maintainability of curbs, roadways, and highly visible delineators pose issues of interest for policy development.

3. The demonstration project has been designed with three distinct phases. "Phase 1" entails studying driver behavior at the subject crossings without medians and with locomotive horns routinely sounded. "Phase 2" of the project includes studying driver behavior at those crossings with medians installed but with locomotive horns routinely sounded. "Phase 3" of the project includes studying driver behavior at the crossings with medians installed and routine sounding of locomotive horns prohibited. As an integral part of this demonstration, the City has gathered data during Phases 1 and 2 concerning base line safety risk and the impact on risk of installing these proposed new supplementary safety measures. Data concerning responses to the automated warning system by motor vehicle drivers was gathered by means of video monitoring of driver behavior.

4. All engineering improvements comprising the demonstration have been tested and evaluated and are deemed necessary in lieu of the locomotive horn.

5. City officials have expressed a strong interest in establishing quiet zones at these crossings, which are placed within a segment of railroad exceeding one-half mile in length, making establishment of a quiet zone clearly practicable.

6. Issuance of this order will assist the FRA in gathering information and data useful to development of innovative supplementary safety devices.

7. At the request of the City and the FRA, the BNSF has fully cooperated in the exploration of options for safety improvements at the crossings but considers that the company is not able to unilaterally cease use of the train horn at the crossings, absent issuance of this order.

Accordingly, pursuant to 49 U.S.C. 20153(e)(1), and in order to promote the quiet of the City, and to promote the development of innovative safety measures at highway-rail crossings, *I hereby order* the BNSF, during the term of this order and in accordance with its provisions, to cease the routine sounding of locomotive horns on approach to and at the above crossings during the period known as Phase 3 of the "Pilot Project Train Whistle Ban, City of Coon Rapids, Inc." approved by the Minnesota Commissioner of Transportation on March 20, 2001 and beginning on such date as the City may

determine, subject to the following conditions:

(a) Once every crossing configuration including all signage, median design, and delineator design and spacing is approved by the Minnesota Commissioner of Transportation and every crossing is so configured, the City, through an authorized officer, shall inform BNSF in writing that the routine sounding of the locomotive horn shall cease pursuant to the terms of this order and shall serve such notice on the BNSF with a copy sent to the Associate Administrator for Safety, FRA, at least 14 days prior to the date on which cessation is planned;

(b) All highway-rail grade crossing warning devices installed at the crossing shall operate properly and in accordance with the provisions of 49 CFR Part 234. In the event of a warning system malfunction as defined in 49 CFR 234.5, an engineer operating a train through the crossing is not responsible for sounding the locomotive horn until he or she has been informed of the warning system malfunction;

(c) Advance warning signs, as approved by the Minnesota Commissioner of Transportation, and in conformance with the Manual on Uniform Traffic Control Devices issued by the Federal Highway Administration, shall be posted and maintained by the City advising motorists that locomotive horns will not be sounded;

(d) In accordance with the above Minnesota Commissioner of Transportation approval of March 20, 2001, the City shall maintain and monitor videotapes of each crossing and submit appropriate reports to the Minnesota Department of Transportation; and

(e) The City, in consultation with the FRA Regional Administrator, Region 4, shall be responsible for further data collection to determine the long-term effect on motorist behavior of the new engineering improvements at these crossings combined with cessation of routine use of locomotive horns.

Unless rescinded by the FRA Associate Administrator for Safety at an earlier date, this order is in effect until the effective date of a final rule issued pursuant to 49 U.S.C. 20153, provided that the Associate Administrator for Safety determines that data developed during the initial demonstration period confirms the effectiveness of the subject engineering improvements and periodic monitoring continues to confirm this effectiveness.

Nothing in this order is intended to prohibit an engineer from sounding the locomotive horn to provide a warning to vehicle operators, pedestrians,

trespassers or crews on other trains in an emergency situation if, in the engineer's sole judgment, such action is appropriate in order to prevent imminent injury, death or property damage. This order does not require that such warnings be provided nor does it impose a legal duty to sound the locomotive horn in such situations.

Nothing in this order excuses compliance with sections 214.339, 234.105, 234.106, and 234.107 of title 49, Code of Federal Regulations, concerning use of the locomotive horn under circumstances therein described. Nothing in this order is intended to prohibit an engineer from sounding the locomotive horn or whistle to provide necessary communication with other trains and train crew members if other means of communication are unavailable.

Issued in Washington, DC, on September 28, 2001.

**Allan Rutter,**

*Federal Railroad Administrator.*

[FR Doc. 01-25105 Filed 10-5-01; 8:45 am]

**BILLING CODE 4910-06-P**

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## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket Number: MARAD-2001-10763]

#### 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 ALBORADA.

**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-2001-10763. 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: ALBORADA. Owner: Jay and Katherine K. Light.

(2) Size, capacity and tonnage of vessel. According to the applicant: "Length of the vessel is 36.2 feet, breadth is 11.2 feet, depth is 6 feet. Net tonnage is 10, gross is 12."

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: "It is my intention to operate a sailing charter service, most primarily, but not limited to, day-sailing charters (the

proverbial "Three-Hour-Cruise") on the Southwest Florida Gulf coast, based in Fort Myers Beach. I intend to be licensed as an "Operator of an Uninspected Passenger Vessel, therefore limited to six passengers."

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1979. Place of construction: Kaohsiung, Taiwan.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: "At this time, there is no other similar legal operation in that region."

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: "I can't imagine that granting this waiver would have any impact whatsoever on any US shipyard."

Dated: October 3, 2001.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 01-25266 Filed 10-5-01; 8:45 am]

**BILLING CODE 4910-81-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Maritime Administration**

**[Docket Number: MARAD-2001-10765]**

#### **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 WANDERLUST.

**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-2001-10765. 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:* WANDERLUST.  
*Owner:* Karen and Matt Seekatz.

(2) Size, capacity and tonnage of vessel. According to the applicant: "LOA-41ft; Beam-13.7; Gross Tons-20; Net Tons-16."

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant:

We intend to provide cruising charters for no more than 12 passengers.