DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–98–3468]

46 CFR Part 298

RIN No. 2133–AB32

Putting Customers First in the Title XI Program

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Advance notice of proposed rulemaking; request for comments

SUMMARY: The Maritime Administration (MARAD) is soliciting public comment on whether MARAD should amend its existing regulations or alter its existing administrative practices governing the Title XI application process, standards for evaluation and approval of applications, and the process and documentation for closing of commitments to guarantee obligations issued under 46 CFR part 298 and if so, what changes should be made.

DATES: Comments must be received on or before March 19, 1998.

ADDRESSES: Signed, written comments should refer to the docket number that appears at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, S.W., Washington, D.C. 20590–001. All comments received will be available for examination 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 is available on the World Wide Web at http:/dot.gov.

FOR FURTHER INFORMATION CONTACT: Mitchell D. Lax, Director, Office of Ship Financing, Maritime Administration, Washington, DC 20590, telephone (202) 366–5744.

SUPPLEMENTARY INFORMATION: In response to a 1993 recommendation from Vice President Gore's National Performance Review team, President Clinton issued Executive Order 12862, September 11, 1993, calling for ''a revolution within the Federal Government to change the way it does business'' by ''putting customers first'' and striving for a ''customer-driven government'' that matches or exceeds the best service available in the private sector. In October 1997, the National Performance Review team reported that Federal agencies, implementing the Executive Order, had launched a massive effort to improve governmental service and had made a noticeable difference.

On December 1, 1997, in a memorandum to Heads of Operating Administrations and Departmental Officers at the United States Department of Transportation, Secretary of Transportation Rodney E. Slater urged all Departmental officers and heads of Operating Administrations to ask their customers ''what is important to them in the kinds and quality of services they want and what is their level of satisfaction with existing services.'' Secretary Slater emphasized that it is ''this customer feedback that will be the basis for improving, revising, adding, or deleting standards when it makes sense and, ultimately, for helping us become a more customer-focused DOT.'' The purpose of this Advance Notice of Proposed Rulemaking (ANPRM) is to obtain such customer feedback in connection with the program for guarantees of financial obligations authorized by Title XI of the Merchant Marine Act, 1936, as amended, 46 App. U.S.C. 1271 *et seq.* (Title XI).

Title XI authorizes the Secretary of Transportation (Secretary) to provide guarantees of debt issued for the purpose of financing or refinancing (i) the construction, reconstruction or reconditioning of U.S-flag vessels or eligible export vessels built in United States shipyards and (ii) the construction of advanced shipbuilding technology and modern shipbuilding technology of a general shipyard facility located in the United States. Applications for obligation guarantees are made to MARAD acting under authority delegated by the Secretary to the Maritime Administrator. Prior to execution of a guarantee, MARAD must, among other things, make determinations of economic soundness of the proposed project and the financial and operating capability of the applicant. The Title XI program enables owners of eligible vessels and shipyards to obtain long-term financing on terms and conditions that may otherwise not be available.

MARAD requests that its customers, the shipyard and shipowner executives, their lawyers, accountants, investment bankers and other professionals, who have used or are familiar with the Title XI program, provide MARAD with their views about how the Title XI program is administered and how it could be improved. MARAD requests that these program customers address the application process, the review and approval standards employed by MARAD for the issuance of a commitment to guarantee obligations, the closing documentation, and the process for the issuance of the obligation guarantees. Although all comments are welcome, MARAD is particularly interested in comments concerning the following specific questions:

1. Are changes needed in the current application form (Form MA–163)? What specific changes should be made in the application procedure and the application form to make the process more efficient without eliminating critical information needed by MARAD to evaluate applications properly?

2. Should there be a separate application form for eligible export vessels and a separate application form for shipyard modernizations? What specific information in the current application Form MA–163 is unnecessary for a proper evaluation of these applications and should be deleted? What additional information is needed for these types of applications and should be added? Can there be a ''one form fits all approach,'' or are there differences of sufficient magnitude to warrant separate application forms and procedures? A working draft of a possible application form covering shipyard modernization is available upon request.

3. Should MARAD permit the electronic filing of all or part of Title XI applications, and what special steps would be necessary to ensure privacy of business confidential information to facilitate an initiative in this direction?

4. Do any of the requirements for information on the applicant's and operator's qualifications (46 CFR 298.12) seek information which is unnecessary or redundant or is not generally required in commercial financing transactions of this type? Do they ask sufficient information to permit MARAD to screen out inappropriate and inexperienced applicants and operators? What specific changes, if any, would you make to the regulations?

5. Do the financial requirements (46 CFR 298.13) request financial information which is unnecessary or redundant? Do they seek sufficient information to permit MARAD to make valid determinations? Do they pose impracticable or excessive tests? What specific changes, if any, would you make to the regulations?

6. Do the requirements for information on the economic soundness (46 CFR 298.14) of a proposed project seek information which is unnecessary or redundant? Do they provide sufficient information to permit MARAD to make valid determinations about the commercial viability of an applicant's proposed project in the foreseeable future? Do they pose any impractical or excessive tests? What

specific changes, if any, would you make to the regulations?

7. On April 17, 1997, the Maritime Administrator issued Maritime Administrative Order (MAO) No. 520–1, Amendment 2 to clarify MARAD's existing policies and procedures with respect to economic considerations employed in evaluating applications for Title XI guarantees. The MAO is set out in full below. Should these administrative guidelines be placed into the Title XI regulations? Please support your reply with an explanation and specific examples of the benefits or problems that could inure from making these guidelines part of MARAD's regulations.

8. Do the documentation requirements for a closing on a commitment to guarantee obligations as set out in Subpart D of 46 CFR 298, and as incorporated into MARAD's standard vessel financing closing documents for U.S.-flag and eligible export vessels (which, incidentally, are available from MARAD on computer diskette) impose requirements that are unnecessary or redundant? What specific changes, if any, would you recommend MARAD make to its standard documentation or to its closing practices?

9. Should MARAD create special documents to govern closings on commitments to guarantee shipyard modernizations?

10. MARAD has previously preapproved designs, plans and specifications for ships that can be built under the Title XI program. Once a shipyard has had a design approved by MARAD, should MARAD waive the submission of the plans and specifications normally required by the application form? To what extent should MARAD require plans and specifications if the proposed ship would deviate from plans and specifications that have been previously approved by MARAD?

Persons interested in the efficient administration of the Title XI program are invited to submit written comments on the questions set out above, or to raise any other issues. Please make your suggestions and views as specific as possible, naming and quoting the practices and regulations that you believe should be changed. MARAD may subsequently hold a public meeting, if it believes that such a meeting would be helpful, to seek further clarification of the written issues raised. After consideration of the written comments and oral comments, if a public meeting is held, MARAD will decide whether to proceed with any specific proposed change to its existing regulations or administrative practices. Any changes proposed by MARAD will be the subject of a future Notice of Proposed Rulemaking.

By Order of the Maritime Administrator.

Dated: February 11, 1998.

Joel C. Richard,

Secretary.

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