

**§ 389.4 Application and fee.**

(a) When, after surveying the market and discussing the platform project with potential coastwise-qualified vessel owners/operators, it appears that coastwise-qualified vessels will not be available for a project, the platform jacket owner/operator may apply to the Maritime Administration for a determination of non-availability and request authority to use a foreign launch barge.

(b) A complete application must be submitted to the Secretary, Maritime Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590 at least 120 days prior to the proposed platform jacket transportation date.

(1) The Maritime Administration reserves the right to waive, reduce, or extend the time requirements based upon its evaluation of any national emergency or other relevant consideration.

(c) Applications must contain the information set forth in paragraphs (c) and (d) of this section and be accompanied by a statement signed by an officer of the applicant containing the following language:

“This application is made for the purpose of inducing the United States of America to grant a determination of non-availability of a coastwise-qualified vessel as set forth in 46 U.S.C. 55108. I have carefully examined the application and all documents submitted and, to the best of my knowledge, information and belief, the statements and representations contained in said application and related documents are full, complete, accurate and true. Further, I agree to pay any fees that result from the work required by this application.

Signature: \_\_\_\_\_  
 Name (typed): \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

(d) The applicant must submit a non-refundable check in the amount of \$500 (Five Hundred Dollars) made payable to the Maritime Administration, which is a minimum fee and represents a deposit against any cost to the Government for processing the application. The applicant must also submit a signed statement (*see* paragraph (c) of this section) that it agrees to pay all

such additional costs that will be invoiced by the Government. Government costs will be billed for actual staff hours spent at applicable hourly rates plus overhead, administrative and other associated costs.

(e) *Required platform jacket transportation project information.*

(1) Applications must include a general description of the transport, placement and/or launch project, including:

(i) A description of the platform jacket structure with launching weight, center of gravity, major dimensions, and a general arrangement plan,

(ii) The projected loading date and site,

(iii) The projected transportation date and destination site,

(iv) The names of potential coastwise-qualified vessel owners/operators contacted and their responses regarding suitability and availability of transportation vessels, and

(v) The technical merits and availability studies of coastwise-qualified vessels considered.

(2) Characteristics of the applicant's desired foreign launch barge, including, at a minimum, the following information:

(i) Name of the vessel,

(ii) Registered owner of the vessel,

(iii) Physical dimensions, deadweight capacity in long tons, ballasting capacities and arrangements, and launch capacity in long tons and arrangements,

(iv) Documentation showing classification as a launch barge by one of the following classification societies: American Bureau of Shipping (ABS), Bureau Veritas (BV), Lloyd's Register (LR), Germanischer Lloyd (GL), Det Norske Veritas (DNV) or Registro Italiano Navale (RINA).

(v) Date and place of construction of the foreign launch barge and (if applicable) rebuilding. If the applicant is unable to document the origin of the vessel, foreign construction will be assumed.

(vi) Name, address, e-mail address and telephone number of the foreign launch vessel owner.

(3) A signed statement that the applicant represents that the foregoing information is true to the best of the applicant's knowledge and belief, as required by paragraph (b) of this section.

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(f) The Maritime Administration may require additional information from an applicant as part of the review process. The application will not be considered complete until the agency has received all required information.

### § 389.5 Review; issuance of determinations.

(a) The Maritime Administration will review each application for completeness, including evidence of prior notification and payment of the application fee. Applications will not be processed until deemed complete. The Maritime Administration will notify an applicant if additional information is necessary. The agency encourages submission of applications well in advance of project dates in order to allow sufficient time for review under this part.

(b) The Maritime Administration will review the information required by Section 389.4. When the application is deemed complete, the agency will publish a notice in the FEDERAL REGISTER describing the project and platform jacket involved, advising that all relevant information reasonably necessary to assess the transportation requirements will be made available to interested parties upon request. The notice will request that information on the availability of coastwise-qualified vessels be submitted within thirty (30) days after the publication date. The Maritime Administration will also notify coastwise-qualified owners/operators who have registered with per § 389.3.

(c) The Maritime Administration will review any submissions whereby an offeror owner or operator of a coastwise-qualified vessel asserts it is available and will facilitate discussions between the offeror and a platform jacket owner/operator who requires transportation services. If the parties are unable to reach agreement, the Maritime Administration will make a determination regarding vessel availability.

(d) If needed, the Maritime Administration's technical personnel will review data required by § 389.4. The data must be complete and current. Any data submitted will not be returned to an applicant and will be retained by the agency on file further to applicable record retention directives. Maritime Administration review will not substitute for the review or approval by a major classification society (ABS, BV, LR, GL, DNV, RINA). Maritime Administration review will not verify the accuracy or correctness of an applicant's engineering proposal; rather, it will only pertain to the general reasonableness and soundness of the technical approach.

(e) The Maritime Administration will disapprove the application if:

(1) The agency finds the applicant does not comply with requirements set forth by § 389.3 or § 389.4; or

(2) The agency finds that the applicant refused to attempt to obtain transportation services that comply with the Jones Act; or

(3) The agency determines a suitable coastwise-qualified vessel is reasonably available.

(f) The Maritime Administration will issue a determination of non-availability if it is determined that no suitable coastwise-qualified vessel is reasonably available.

(g) A determination will be issued within ninety (90) days from the date the application notice was published in the FEDERAL REGISTER.

(h) A determination of non-availability will expire one-hundred and twenty (120) days after the date of issuance, unless the agency provides an extension for good cause shown.

(i) Maritime Administration determinations in this regard should not be interpreted as a change setting new Federal maritime precedents. The Maritime Administration fully supports the Jones Act, the Passenger Vessel Services Act, and other Federal U.S.-flag requirements.